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**“Towards safe, healthy and declared work in Ukraine”**

**OSH**

**Draft Legal Act**

**“On Minimum Workers’ Safety and Health Requirements for  
Temporary or Mobile Construction Sites”**

**developed by the State Labour Service of Ukraine**

**EU-ILO Project technical recommendations  
on its better alignment with International and European  
Labour Standards and best practices**

**July, 2021**

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## EXECUTIVE SUMMARY

The draft Legal Act “On Minimum Workers’ Safety and Health Requirements for Temporary or Mobile Construction Sites”, prepared by the State Labour Service of Ukraine (SLS), is aimed at bringing the Ministry of Social Policy Order No. 1050, of 23.06.2017, “On approval of the Minimum Labour Protection Requirements for Temporary or Mobile Construction Sites”, closer to the Council Directive 92/57/EEC, of 24 June, on the implementation of minimum safety and health requirements at temporary or mobile constructions sites (eighth individual Directive), as foreseen in Articles 419 to 424 and Annex XL to Chapter 21, of the [Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part](#) (AA)<sup>1</sup>.

The present technical advice and recommendations, to the draft Legal Act “On Minimum Workers’ Safety and Health Requirements for Temporary or Mobile Construction Sites”, are provided within the scope of the EU-ILO Project “[Towards safe, healthy and declared work in Ukraine](#)”, under the activities 1.1.1 and 1.1.2.

They were prepared, on behalf of the ILO, by Pedro Nuno Pimenta Braz, Senior Labour Inspector and former Inspector-general of the Portuguese Authority for Working Conditions, and former head of the WG MACHEx of the EU Commission’s Senior Labour Inspectors Committee (SLIC).

These technical recommendations are intended to promote a better alignment of the aforesaid SLS draft legal act with the main applicable International<sup>2</sup> and European<sup>3</sup> labour standards and best practices.

They build on the previous EU-ILO Project “[Enhancing the Labour Administration Capacity to Improve Working Conditions and Tackle Undeclared Work](#)” contributions. Specially in what concerns the analysis and recommendations contained in the supported “[National Occupational Safety and Health Profile Ukraine - 2018](#)”, the proposed “[Guidelines and Recommendations to the Concept on the Reform of the National System for Occupational Risk Prevention and Promotion of OSH](#)”, the “[Brief notes on the main aspects of the alignment between Ukrainian national legislation and selected EU directives](#)”, the “[White Paper on EU Directives and Reform of OSH and Labour Relations’ Legislation](#)”, and the “[Roadmap for alignment of the Ukrainian legislation on working conditions with the EU legal framework](#)”.

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<sup>1</sup> See pp. L 161/157 and L 161/1983, of the Official Journal of the European Union, of 29.5.2014.

<sup>2</sup> In particular, with the ILO Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Health Services Convention, 1985 (No. 161), the [Labour Inspection Convention, 1947 \(No. 81\)](#) and [Labour Inspection \(Agriculture\) Convention, 1969 \(No. 129\)](#).

<sup>3</sup> Most especially with EU 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, and the [Council Directive 92/57/EEC](#), of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC).

They also follow four sets of technical recommendations, provided by the EU-ILO Project in [October](#) and [November](#) of 2020 and in [February](#) and [June](#) of 2021, regarding the alignment of the ME draft Law “On Occupational Safety and Health of Workers” (aimed at transposing the EU OSH Framework Directive 89/391/EEC to the national legal framework) with the relevant International and European Labour Standards and best practices.

The present technical recommendations should not be seen as official comments of the ILO or as a replacement of the positions of its supervisory bodies.

Moreover, the expert technical opinions expressed therein neither reflect the official opinion of the European Union nor its responsibility can be attributed to the European Union.

The first section highlights the main positive aspects of this draft legal act. The key aspects that need further improvement are summarized in section II. Section III identifies and details the needed amendments and proposes a more adequate wording for the concerned provisions along with the applicable rationale.

It is our expectation that these technical recommendations may contribute to an improved legislation, better aligned with the main applicable International and European labour standards and best practices, which can effectively advance decent working conditions in Ukraine.

Kyiv, 19 July 2021

**EU-ILO Project**  
**“Towards safe, healthy and declared work in Ukraine”**  
ILO Office for Central and Eastern Europe

## I. MAIN POSITIVE ASPECTS

Looking at the provisions of the draft Legal Act “On Minimum Workers’ Safety and Health Requirements for Temporary or Mobile Construction Sites”, prepared by SLS, in light of the main applicable International and European Labour Standards and best practices, it is possible to identify some positive aspects, namely:

1. The development of a modern legal regulation, aligning national legislation with the applicable International and European labour standards and best practices in the area of safety and health requirements at temporary or mobile constructions sites.
2. It reflects a more goal-oriented and organizational preventive approach, as requested by the EU Council Directive 89/391/EEC, of 12 June 1989, the ILO Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and the Occupational Safety and Health Convention, 1981 (No. 155).
3. Shift from an approach based on protection, correction and compensation to an approach focused on prevention and foreseeing the general principles of prevention (GPP) applied to construction sites, including the employers’ obligation to assess and control occupational risks.
4. Incorporates the two fundamental pillars of the Directive 92/57/EEC:
  - a. Applies the philosophy enshrined in the GPP to the act of designing the building, namely, in terms of architectural options and technical choices of materials (prevention of design);
  - b. Strengthens coordination between the different stakeholders, from the preparation of the project of the work and also during the execution of the work, in order to streamline the articulation and succession of interventions, considering the different requirements for planning safety and health at work.
5. Perceives the “client” as the first level of decision and responsibility and as who generates all the subsequent chain of responsibilities.
6. Realizes the existence of an integrated occupational safety and health coordination system, in which the safety and health coordinators assume a key mission.
7. Underlines the importance of safety and health planning, through the Prior Notification of the opening of a construction site and the Safety and Health Plan, which emerge as the main prevention tools and coordination instruments.
8. The distribution of responsibilities among the different stakeholders was well perceived and recognized. As a function of the role they play; their ability to intervene and influence in each of the stages of the construction process; and the impact that the options taken may have on the nature of the resulting occupational risks. Responsibilities are therefore properly distributed between the client, project supervisor, designer, general contractor, contractor and self-employed persons.

## II. KEY ASPECTS TO IMPROVE

As for the key aspects that need to be further addressed and improved, in order to be better align this draft legal act with the aforesaid international and European labour standards and best practices, they include, *inter alia*, the following:

1. This normative act, or legal instrument, should assume the typology of, at least, a Cabinet of Ministers of Ukraine (CMU) Decree or Resolution, instead of an Order of the Ministry of Social Policy (or of the Ministry of Economy). Not only to ensure the necessary legal power from a higher hierarchical law - thus ruling out other legal diplomas on the same matters that already exist -, but also to ensure the stability of the legal framework enabling, as a result, greater legal certainty. Besides, a Directive is a text with general application in all EU countries, by so its implementation should adopt a legally equivalent instrument. The choice of a higher hierarchical legislative act is adopted by all EU member states as evidenced by the assessment carried out in 2004 by the European Commission.<sup>4</sup> The legal instrument must have the necessary legal power to ensure its effective implementation, overcoming contrary provisions of existing legal acts, as well as to safeguard its sustainability and perennially, which are needed to ensure the certainty and security of legal system, as previously recommended<sup>5</sup>. It is also about the consistency of the reform of OSH legislation in its internal relations, as well as with pre-existing legal acts, using the hierarchy of laws in an appropriate way.
2. The legal act systematics, structure and clarity should be improved, in order to simplify it and to facilitate its understanding and alignment with the EU Directive 92/57/EEC, of 24 June. Some examples:
  - a) All paragraphs of the Articles of the draft legal act “Minimum Workers’ Safety and Health Requirements for Temporary or Mobile Construction Sites” proposed by SLS, as well as all of the Sections of the Annexes, should be dully and hierarchically numbered, in order to facilitate the understanding of the legal provisions and their cross-reference within the text and, most especially, to facilitate its overall understanding and effective application.
  - b) The definitions, legal provisions as well as the terminology used must improve the consistency with the Draft Law of Ukraine transposing EU Directive 89/391/EEC.
3. The title of the draft legal act proposed by SLS (“Minimum Workers’ Safety and Health Requirements for Temporary or Mobile Construction Sites”) should also be replaced by “Minimum Safety and Health Requirements at Temporary or Mobile Construction Sites”,

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<sup>4</sup> See, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions on the practical implementation of the provisions of the Health and Safety at Work Directives 89/391 (Framework), 89/654 (Workplaces), 89/655 (Work Equipment), 89/656 (Personal Protective Equipment), 90/269 (Manual Handling of Loads) and 90/270 (Display Screen Equipment), Brussels, 05.02.2004, [COM\(2004\) 62 final](#)

<sup>5</sup> See, for example, the recommendation “To provide that the legal acts transposing the EU OSH legal framework have a reinforced nature in relation to other legislation”, as laid down on point 4) of section “2 - Legislative measures” of “Part IV – Recommendations”, in the in p. 48 of the “[White Paper on EU Directives and Reform of OSH and Labour Relations’ Legislation](#)”, to avoid the risk of “Option for hierarchically lower legal sources” associated with the “Strategic measures” of “Assume a legislative intervention program”, as identified in the “Part V - Roadmap” table in the 53 of the same document.

because the “Safety and Health Requirements” are not “of the workers”, but, instead, of the “workplaces” (i.e., “of the temporary or mobile construction sites”). The scope of Directives 89/391/EEC, and all the subsequent individual Directives - namely the Directive 92/57/EEC -, as well as ILO Conventions’ Occupational Safety and Health Convention, 1981 (No. 155), Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) and Safety and Health in Construction Convention, 1988 (No. 167) are about safety and health in workplaces. Although Directive 92/57/EEC aims at implementing an intrinsic occupational risk prevention system at workplaces that, in fact, has “workers” as final recipients, the foreseen rules are addressed and applicable to different stakeholders in workplaces (client, project supervisor, coordinators for safety and health, general contractors, employers, self-employed persons), compelling them all to an effective management of safety and health in those same workplaces. It would be reductive to name the entire architecture of professional risk prevention as the minimum workers’ safety and health requirements as these requirements, although intended for ensuring the safety and health of those who work in construction sites and, especially, of the workers, they have to apply not only to workers but also to others (e.g., client, project supervisor, coordinators for safety and health, general contractors, employers, self-employed persons)..

4. The draft legal act ‘Minimum Safety and Health Requirements at Temporary or Mobile Construction Sites’ misses to insert, in Section “I - General provisions”, a provision which, with the reference to Article 16(3) of the Framework Directive 89/391/EEC, foresees that “The provisions of the Law of Ukraine “On Occupational Safety and Health of Workers”, which implements the provisions of the 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, shall apply in full to the whole areas referred to in paragraph 1, without prejudice to more stringent and/or specific provisions foreseen in this ‘Minimum Safety and Health Requirements at Temporary or Mobile Construction Sites’”. This insertion is therefore recommended, as the proposed paragraph 3 of the proposed new “Article 2 - Scope”.
5. It was found, several times, that the adaptation of Directive 92/57/EEC, carried out in the draft legal act “Minimum Workers’ Safety and Health Requirements for Temporary or Mobile Construction Sites” proposed by SLS had clearly the intention to innovate a bit, so as not to copy exactly the wording of the text of the Directive. However, very often, the results did not fully transpose what the legislator of the Directive intended.
6. Accordingly with the aforesaid, there are therefore a set of expressions and technical words that are not entirely in accordance with the Directive 92/57/EEC, namely:
  - a) In paragraph 1 of section “I - General Provisions”, the word "engineering" was missing. It was therefore added (see paragraph 1 of proposed “Article 1 - General provisions”), as the scope of Directive 92/57/EEC is not only the construction of buildings, but also “civil engineering works” - see Article 2(a), as well as the title of Annex I of Directive 92/57/EEC. On the other hand, the words “planning” and “coordination” were also added (cf. proposed Article 1(1)), because these are not just rules for organizing the safety and health of a construction site. Actually, above all, these rules shape a safety and health prevention system, which encompasses the planning and coordination of

the same safety and health - as examples, both the "Prior Notice" to the competent authorities and the "Safety and Health Plan" documents. In fact, an event can even be organized, but go wrong because it was not previously planned and properly coordinated in the execution phase. These three verbs - to plan, to organize and to coordinate - are the key to the effectiveness of safety and health in a workplace in general terms and in a construction site in particular - see Articles 3, 4, 5 and 6 of the Directive 92/57/EEC.

- b) Despite the fact that the Directive 92/57/EEC and the draft legal act "Minimum Workers' Safety and Health Requirements for Temporary or Mobile Construction Sites" present the list of works covered in an annex, it seems important that this list appears immediately in the body of the law: it makes it easier to use for the different stakeholders. At the same time, the "excavation works" were not included in the list of works of the Ukrainian draft legal act "Minimum Workers' Safety and Health Requirements for Temporary or Mobile Construction Sites" proposed by SLS, but they are part of the list of works in annex I of the Directive 92/57/EEC. Thus, these "excavation works" were included, because the meaning of the word "Earthworks" may not comprise excavation works and these are high risks works. In turn, the list of works is somewhat disordered, which, trying to specify too much, can lose scope. Hence, another wording is proposed. For example, the "arrangement of heat-insulating façade systems" can be included in the alteration, fitting-out, conversion or upkeep building works; or "roofing works", which are included in various construction works - construction, expansion, alteration ... What is obvious is that there is no doubt that these works fall within the scope of this law. The specification of some works may indeed lead to the exclusion of all others, which are not specifically mentioned. However, it was added the terms "scaffolding", "cranes", and other "lifting devices" because they are listed in Annex IV, Part B, Section II of the Directive and because of their weight in occupational risks on a construction site.
- c) The Directive 92/57/EEC makes explicit the "drilling" and "extraction activities", which are not include in paragraph 4 of section "I - General Provisions". Then, it was added the word "drilling" in paragraph 2 of the proposed new "Article 2 - Scope".
- d) The sentence "*except works related to underground mining of ore and non-ore mineral resources as well as construction and operation of underground mining workings created during open-pit development of mineral resource deposits*", which was contained in the original Annex 1 of the "Minimum Workers' Safety and Health Requirements for Temporary or Mobile Construction Sites", was removed and was not incorporated in paragraphs 1 and 2 of the proposed new "Article 2 - Scope", because it is useless - its meaning is contained in the wording of paragraph 2 of the proposed new Article 2 - Scope" (in particular: "*This law does not apply to drilling and extraction activities that take place within the extractive industries*").
- e) Paragraph 2 of Section "I - General provisions" was deleted. It is unnecessary to mention the interveners in this law, as they are clearly identified in it, as well as their responsibilities, which must, in cases of non-compliance, lead to the respective

sanctions. Their involvement stems from the text of the law. This reasoning assumes that there is then an objective accountability of the intervener's existent at a construction site, with the subsequent sanctions. Moreover, these liability and sanctions should be included in this law. In fact, the more objective and obvious this responsibility – with the corresponding sanctions –, the more useless it becomes to refer to the interveners in the workplace in a separate provision. More important is to ensure the coverage of all areas of all economic sectors, in accordance with Article 2(1) of the Framework Directive 89/391/EEC. So, such coverage was added, underlining that the law should cover to all branches of activity in the public, private, cooperative and social sectors, to public administration, as well as to all self-employed persons, with regard to building construction and civil engineering works.

- f) In paragraph 5 of Section “I - General provisions”, and with regard to the definitions, several changes were made - of which the safety and health plan stands out. It was necessary to better specify the content of the safety and health plan, since their wording in the draft legal act proposed by SLS was somewhat confusing. According to the 4th paragraph of article 4 of Directive 92/57/EEC, the safety and health plan must be considered also during the various stages of designing and preparing of the work project. Therefore, these risks must be also prevented at the project stage. Pursuant to Article 5(b) of the same Directive, the safety and health plan must indicate the rules applicable to the construction site in question; so, as it is a safety and health plan, the rules should be ones of safety and health. Pursuant to paragraphs 2 and 3 of Article 6 of the framework Directive 89/391/EEC, there are no preventive measures without prior identification and assessment of the existing risks, which must cover all works from the beginning to the conclusion of the construction work, without any exception. Consequently, Safety and Health Plan should be a written document that includes a package of measures aimed at preventing occupational safety and health risks, either in the project stage, and during the execution of works on a specific construction site, identifying the occupational risks associated with the different phases of the constructive process, evaluating these risks and prescribing preventive measures aimed at eliminating or reducing these same occupational risks, thus contributing to ensure the safety and health of workers, including specific measures relating to works that imply special risks to the safety and health of these same workers.
- g) In subparagraph 3) of paragraph 1 of Section XI, there is an example of how translations can change or constrain the application of a provision. Where the wording states, “*Workers representatives shall have the right **to approach** the employer with suggestions as regards taking appropriate preventive measures and preventing any danger for workers and/or removing sources of danger.*” The text was change to “*Workers' representatives **have the right to ask** the employer to take the appropriate preventive measures, to submit proposals for this purpose, in order to mitigate the risks to the workers and/or removing the sources of danger*”. This amendment was made because, as provided for in Article 11 of Directive 89/391/EEC, it is not just a matter of workers' representatives being able to make a simple “approach” to the employer, but rather of being able to make concrete proposals and

ask him to take the appropriate preventive measures. The word approach does not translate what the legislator intends. In fact, the legislator wants the workers' representatives to be able to ask the employer to take tangible measures, also presenting concrete proposals.

- h) Yet another example of non-full translations is what is in Section XIII (2) on "*Minimum requirements for on-site workplaces. Arrangement of indoor workstations*". In this case, the words "deposit" and "dirt" were added to replace the words "substance" and "dust". The words used in the Directive "deposit" and "dirt" have much broader meanings than the words used in the drafting of this law, "substance" and "dust". "Deposit" and "dirt" include "substances" and "dusts", but they also encompass, e.g., mixtures which can diffuse into the atmosphere and which are neither substances nor dusts - in Annex IV, Part B, paragraph 3 of Directive 92/ 57/EEC.
- i) There is often confusion between the meaning of the word's "hazards" and "risks". By definition, "hazard" is different from "risk": while "hazard" is something that can cause harm (e.g. electricity, chemicals, working up a ladder, noise, a keyboard, a bully at work, stress, etc.), a "risk" is the combination of the chance (probability), high or low, that any hazard will actually cause someone harm with the gravity (high or low) of its consequences. Some corrections were made. Another confusion is between "workplaces" and "workstations" (workplaces are wider and include workstations - whereas the latter means an individual place/station/spot which, in principle, is assigned to just one person to work).
- j) To the content of the safety and health plan (Section V) has been added the information and training systems for all workers present on the construction site in matters of prevention of occupational risks and the necessity of a written record of the activities of the coordinator for safety and health. This record includes the activities of the general contractor, contractors and self-employed persons, with regard to ensuring compliance with what is determined in the safety and health plan. It is essential that the coordinator for safety and health is able to prove his activities and compliance with his obligations, either to be able to prove them to the client and the project supervisor - also to the labour inspectors -, or to discipline himself and discipline all employers and self-employed persons engaged on the construction site. When having to show their activities, the coordinator for safety and health will always have greater discipline in developing them systematically and in a structured way.
- k) In Section VI, the expression "general provisions on worker's safety and health" should be changed because, in its content, there are some technical provisions together with the so-called general principles of prevention (GPP), as enshrined in paragraph 2 of article 6 of the framework Directive 89/391/EEC. It is therefore important to emphasize the GPP. Moreover, the measures to be adopt are preventive measures, in order to prevent the occurrence of work accidents and occupational diseases. These are not mere protective measures. They are preventive measures - non-reactive measures - adopted upstream of a possible nefarious event. Thence the wording of Directive 89/391/EEC, which designates all these measures as

“preventive”. This word - prevention - illustrates the philosophy of the entire architecture of safety and health, both in the framework Directive and in all subsequent individual Directives that emanated from it.

- l) In Section VII - Responsibilities of the client and project supervisor - it was included that, regardless of the appointment of the coordinator, or safety and health coordinators, this does not relieve the client or project supervisor of their responsibilities in this regard. Notwithstanding the responsibilities of safety and health coordinators, the responsibility of the client and the project supervisor is predominant and cannot be delegate to third parties - see Article 7(1) of Directive 92/57/EEC.
- m) In Section VIII, and throughout the draft legal act proposed by SLS, there is no provision that emphasizes the responsibility of employers. Indeed, the responsibilities of the client/project supervisor and the general contractor shall not affect the principle of employers’ responsibility, as provided for in Directive 89/391/EEC, in particular, to assess the risks to the safety and health of workers and to implement the necessary preventive and protective measures. It is vital to stress the non-delegable responsibility that each employer has to ensure the safety and health working conditions of their own workers in every aspect related to the work - see Article 7(2) of the Directive 92/57/EEC and Articles 5(1) and 6 of Directive 89/391/EEC. This provision was added.
- n) In paragraph 1 of Section IX of the draft legal act proposed by SLS is mentioned that natural persons must *“take care of their own safety and health and that of other persons likely be affected by the worker’s acts or omissions at work, in accordance with their training and with the demands of clients or project supervisors and coordinators for labour protection matters”*. First of all, do not forget that, for the purposes of labour legislation, a “natural person” is not the same as a “worker” and the wording of the provision as it is - containing the word “worker” -, leads to bewilderment. So, the spirit of the Framework Directive 89/391/EEC and all resulting Directives is to focus responsibilities on the employer - see Articles 5 and 6 - and on the entire subcontracting chain, which starts with the client. Naturally, workers also have obligations – in article 15 of that Directive. Conversely, it is contrary to the spirit of the Directive 89/391/EEC to assume from the outset that the worker has had flaws and omissions in the field of safety and health at work. On the contrary. There must exist a planning of safety and health at work duly integrated into each technical gesture, accompanied by the necessary training and information for workers. For a liability to be attributed to a worker - an omission or a harmful act - it will be necessary that nothing has failed in the entire chain of responsibilities, which starts with the client, goes through the general contractor, going to the contractor/employer, not forgetting the safety and health coordinators. Furthermore, this can only be ascertained in the workplace accident investigation. The wording was changed to *“Take care of their own safety and health and that of other persons likely be affected due to acts and omissions resulting from inadequate working conditions at work in*

*accordance with their training and with the demands of clients or project supervisors and coordinators for safety and health”.*

- o) In Section XIV (4)(1) the Draft legal act proposed by SLS mentions that *“falls from a height of more than 1.3 m must be prevented with the help of solid cradles, making worker falls impossible, with a height of at least 1.1 m to the bottom of the top element, which have a top and medium parts and an end-board or an equivalent alternative”*. Not talking about the wording, which is a little confusing, what stands out here is the placement of specific measurements, the specification of two technical elements: why those heights of 1.3 m and 1.1 m? Does having a handrail “at least” 1.1 m high mean it can still be taller than that height? Is it appropriate, in terms of work safety, to have a main handrail with a higher height? It does not seem like it is, on the contrary. In addition, if particular dimensions are to be set, why not specify the width of the end-board from the work platform? Are all these measurements in any technical regulation of safety rules in civil construction in Ukraine? Are they common to the standard dimensions of collective protections for scaffolding for sale in commercial establishments and, supposedly, duly homologated? It should be stressed that collective protections must all have the same dimensions. For example, in the European Union, scaffolds have specific Harmonized European Technical Standards for scaffolding which, although they do not have the force of law (and therefore are not mandatory), establish technical specifications that are considered adequate or sufficient to ensure compliance with the technical requirements established in European legislation. It was therefore appropriate to adopt these same dimensions. Despite everything, the measurements were not removed from the text, as it is not known whether they have any connection with technical legislation in Ukraine, but with reservations regarding what has just been exposed. Furthermore, in terms of legislative systematic, the enactment of the technical dimensions of the collective protection devices to be implemented ought to be included in a specific technical regulation of safety and health in civil construction and not in this diploma - Annex IV, Part B, paragraph 5.1 of Directive 92/ 57/EEC.
- p) In Section XIV (7) it was necessary to change the title of the provision *“Means of transport, excavating machinery and transporters”* to *“Excavating and materials-handling vehicles and machinery”*. The meaning of the title proposed in the draft legal act proposed by SLS for this provision modifies what is contained in the Directive. The terminologies “means of transport” and “transporters” lead directly to the transport of passengers - bus, train, airplanes, ship, car, etc -, or the transport of large loads - such as cars - and not for operations within a construction site. On the other hand, the meaning of “material-handling” can be expressed as the loading, unloading, and movement of goods, as within a factory or warehouse, especially by the aid of mechanical devices. So, it makes a distinct difference to “transporters” or “means of transport”. The title in the Annex IV, Part B, paragraph 8 of Directive 92/ 57/EEC - *“Excavating and materials-handling vehicles and machinery”* - will be technically more correct. Subsequently, the words “transporters” and “Means of transport” have been deleted.

- q) In Section XIV (9) (2) it was necessary to highlight in the provision, within earthworks, the word "excavating", because it is not obvious that the term "earthworks" encompasses excavation operations. Therefore, it must be stressed that this expression "earthworks" must include excavation work. So, within the earthworks and given its degree of danger and specificity, it is necessary to emphasize the excavation operation - therefore the emphasis on excavation in earthworks, as provided for in Directive 92/57/EEC. In this provision wording, the expression "and reduce to a minimum" were also added, since it is not enough to only identify occupational risks. After this identification, these risks must be evaluated and ranked. In the end, then, preventive measures have to be prescribed to eliminate or reduce - when it is not possible to eliminate them - these previously identified risks, to a minimum as possible. However, tackling the existing risks is not included in the proposed wording, remaining only the identification of the occupational risks. Again, a risk assessment report that does not have the corresponding measures to eliminate or reduce them is a hollow and useless document. Finally, the expression "underground communications" was replaced by "distributions systems", due to: (i) "underground communications" are already included in "underground cables" and (ii) the "distribution systems" were missing, as is the case of water supply, natural gas and sewage - Annex IV, Part B, paragraph 10.2. of Directive 92/57/EEC.
7. Omission of the definition of the state authority that has the legal competence to promote, control and enforce compliance with its legal provisions. In EU member states, the most common, is that the enforcement of the area of safety and health at temporary or mobile constructions sites Directive is the responsibility of the general authority for labour inspection supported by the definition of criminal or administrative sanctions.<sup>6</sup> It is therefore recommended to provide that the central executive authority that implements the State policy on state control of compliance with the labour legislation have legal competencies to ensure the promotion, control and enforcement of the legal provisions of this legal act, ensuring a better alignment of this legal act with:
- a) Article 9(1) of ILO Occupational Safety and Health Convention, 1981 (No. 155), according to which "the enforcement of laws and regulations concerning occupational safety and health and the working environment shall be secured by an adequate and appropriate system of inspection";
  - b) Article 3(1) of the ILO Labour Inspection Convention, 1947 (No. 81) and Article 6(1) of the ILO Labour Inspection (Agriculture) Convention, 1969 (No. 129), which define the main functions of the system of labour inspection; and
  - c) Article 4(2) of EU Directive 89/391/EEC, according to which the States "shall ensure adequate controls and supervision".
8. It should also be ensured that the violation of the provisions of this legal act is properly covered by legal provisions aimed at sanctioning such infringements. It is recommended to

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<sup>6</sup> European Commission. (2017). Evaluation of the Practical Implementation of the EU Occupational Safety and Health (OSH) Directives in EU Member States.

provide for adequate and dissuasive penalties for the violation of the provisions of this legal act, in order to ensure their compliance and to better align it with the applicable international and European labour standards. In particular, with the following:

- a) Article 9(2) of ILO Convention 155, according to which "The enforcement system shall provide for adequate penalties for violations of the laws and regulations"; and
  - b) Article 18 of ILO C081 and Article 24 of ILO C129, according to which "adequate penalties for violations of the legal provisions enforceable by labour inspectors and for obstructing labour inspectors in the performance of their duties shall be provided for by national laws or regulations and effectively enforced".
9. It is also recommended, to provide for the date of entry into force of this legal act, the indication of the legislation repealed with its entry into force, the adjustment of its annexes where appropriate, and the implementation of the measures necessary to conform the legal framework with its provisions in order to ensure its effective application.

### III. EU-ILO PROJECT DETAILED RECOMMENDATIONS

Draft legal act provision's wording	Recommended wording	Rationale
<p><b>Ministry Order</b> (as the used legal act type).</p>	<p>The Council <b>Directive 92/57/EEC</b>, of 24 June, on the implementation of minimum safety and health requirements at temporary or mobile constructions sites, <b>should be transposed through, at least, a CMU Decree or Resolution</b>, and not through a Ministry Order.</p>	<p>This normative act should, at least, assume the typology of a Cabinet of Ministers of Ukraine (CMU) Decree/Resolution, not only to ensure the necessary legal power from a higher hierarchical law - thus ruling out other laws on the same matters that already exist -, but also to ensure the stability of the legal framework, thus enabling greater legal certainty.</p>
<p><b>Title:</b>            “Minimum Workers’ Safety and Health Requirements for Temporary or Mobile Construction Sites”</p>	<p><b>Minimum Safety and Health Requirements at Temporary or Mobile Construction Sites.</b></p>	<p>The word “Workers” should be removed. The title of the draft legal act proposed by SLS (“Minimum Workers’ Safety and Health Requirements for Temporary or Mobile Construction Sites”) should be replaced by “Minimum Safety and Health Requirements at Temporary or Mobile Construction Sites”, because the “Safety and Health Requirements” are not “of the workers”, but, instead, of the “workplaces” (i.e., “of the temporary or mobile construction sites”).</p> <p>The scope of Directives 89/391/EEC, and all the subsequent individual Directives - namely the Directive 92/57/EEC -, as well as ILO Conventions’ Occupational Safety and Health Convention, 1981 (No. 155), Promotional Framework for Occupational Safety and Health Convention, 2006 (No.</p>

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		<p>187) and Safety and Health in Construction Convention, 1988 (No. 167) are about safety and health in workplaces</p> <p>Although Directive 92/57/EEC aims at implementing an intrinsic occupational risk prevention system at workplaces that, in fact, has "workers" as final recipients, the foreseen rules are addressed and applicable to different stakeholders in workplaces (client, project supervisor, coordinators for safety and health, general contractors, employers, self-employed persons), compelling them all to an effective management of safety and health in those same workplaces. It would be reductive to name the entire architecture of professional risk prevention as the minimum workers' safety and health requirements as these requirements, although intended for ensuring the safety and health of those who work in construction sites and, especially, of the workers, they have to apply not only to workers but also to others (e.g., client, project supervisor, coordinators for safety and health, general contractors, employers, self-employed persons).</p>
<b>I. General provisions</b>	<b>Article 1 - General provisions</b>	
1. These Minimum Requirements establish general principles concerning workers' safety and health and the organization of	1. This law establishes Minimum Requirements for planning, organization and coordination to promote safety and health at	The wording is somewhat confusing and redundant. As such, it is important to separate the matters, numbering them and

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<p>workstations at temporary or mobile construction sites in order to provide safe working conditions, preserve workers' life and health during building works as per the list in <u>Annex 1</u> to these Minimum Requirements (hereinafter referred to as the List of Building Work Types).</p>	<p><b>work during construction and civil engineering works.</b></p> <p>2. These Minimum Requirements have been developed on the basis of the Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC).</p>	<p>making them easier to read. The word "engineering" is added, as the scope of Directive 92/57/EEC is not only the construction of buildings, but also civil engineering works - see Article 2(a), as well as the title of Annex I. On the other hand, these are not just rules for organizing the safety and health of a construction site, but also - and above all - rules for planning and coordinating the same safety and health -, as examples both the "Prior Notice" and the "Safety and Health Plan". For example, an event can even be organized, but go wrong because it was not previously planned and properly coordinated when it was implemented. These three verbs - to plan, to organize and to coordinate - are the key to the effectiveness of safety and health in a workplace in general terms and in a construction site in particular, thus shaping an occupational safety and health prevention system - see Articles 3, 4, 5 and 6 of the Directive 92/57/EEC.</p>
	<p><b>Article 2 - Scope</b></p>	
	<p><b>1. This law is applicable to building construction works, as well as others in the area of civil engineering (hereinafter referred to as List of Building Work Types), which consist, namely, of:</b></p> <p><b>1) Excavation;</b></p>	<p>Despite the fact that the Directive 92/57/EEC and the draft legal act proposed by SLS presents the list of works covered in an annex, it seems important that this list appears immediately in the body of the law: it makes it easier to use for the different stakeholders.</p>

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	<p>2) Earthworks, including arrangement of artificial earth structures;</p> <p>3) Construction, expansion, alteration, repair, renovation, conversion or fitting-out, upkeep and cleaning of buildings;</p> <p>4) Assembly and disassembly of prefabricated elements, scaffolding, cranes, and other lifting devices;</p> <p>5) Demolition;</p> <p>6) Construction, maintenance, conservation and alteration of roads communication routes, railways and airport communication routes and their infrastructures, river or maritime works (including underwater works), engineering works (such as bridges, viaducts and tunnels), dams, silos and industrial chimneys;</p> <p>7) Specialized works in the field of water, such as irrigation, drainage, water supply and wastewater systems, as well as basic sanitation networks;</p> <p>8) Works in transport and distribution infrastructures for electricity, gas and telecommunications;</p> <p>9) Assembly and disassembly of electrical installations and various equipment;</p> <p>10) Insulation and waterproofing works.</p>	<p>The excavation works were not included in the list of works of the Ukrainian law, but are part of the list of works in annex I of the Directive 92/57/EEC.</p> <p>Thus, these excavation works were included. The meaning of the word "Earthworks" may not include excavation works and these are high risk works. In turn, the list of works is somewhat disordered, which, trying to specify too much, can lose scope. Hence another wording is proposed. For example, the "arrangement of heat-insulating façade systems" can be included in the alteration, fitting-out, conversion or upkeep building works; or "roofing works", which are included in various construction works - construction, expansion, alteration ... What is obvious is that there is no doubt that these works fall within the scope of this law. The specification of some works may indeed lead to the exclusion of all others that are not mentioned. However, it was added the terms "scaffolding", "cranes", and "other lifting devices" because they are listed in Annex IV, Part B, Section II of the Directive and because of their impact in occupational risks on a construction site.</p>

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<p>4. These Minimum Requirements shall not apply to extraction in the extractive industries.</p>	<p>2. This law does not apply to drilling and extraction activities that take place within the extractive industries.</p>	<p>The Directive 92/57/EEC makes explicit that there are both “drilling” and “extraction activities”, which are not included in draft legal act proposed by SLS wording. It was then added the word “drilling”.</p> <p>Further ahead the sentence <i>"except works related to underground mining of ore and non-ore mineral resources as well as construction and operation of underground mining workings created during open-pit development of mineral resource deposits"</i> was removed from the annex 1 of draft legal act proposed by SLS. It's needless, because the wording of the title of the provision, once amended, also includes these types of works in those that are excluded from this Draft legal act proposed by SLS. The word extraction has been removed because it does not have the same meaning as “drilling”.</p>
	<p>3. The provisions of the Law of Ukraine “On Occupational Safety and Health of Workers”, which implements the provisions of the Council Directive 89/391/EEC, of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health at work, shall apply in full to the whole area referred to in the paragraph 1 of this Article, without prejudice to more stringent and/ or specific provisions in this resolution.</p>	<p>The Directive 92/57/EEC is one of the Directives that proceeds from the “Framework” Directive 89/391/EEC, so its entire content applies to all Directives that resulted from it. <i>Mutatis mutandis</i>, the content of the Law of Ukraine “On Occupational Safety and Health of Workers”, which incorporated the content of the Framework Directive, should also apply to this</p>

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		draft legal act proposed by SLS, as provided for in Article 16(3) of Directive 89/391/EEC.
2. These Minimum Requirements shall apply to clients, project supervisors, general contractors, contractors, subcontractors, and self-employed persons	4. This law is applicable to all branches of activity in the public, private, cooperative and social sectors, to public administration, as well as to all self-employed persons, with regard to building construction and civil engineering works.	It is unnecessary to mention the interveners in this law, as they are clearly identified in it, as well as their responsibilities, which must then, in cases of non-compliance, lead to the respective sanctions. Their involvement stems from the text of the law. This reasoning assumes that there is then an objective accountability of the intervener's existent at a construction site, with the subsequent sanctions. Moreover, these liability and sanctions should be included in this diploma. In fact, the more objective and obvious this responsibility – with the corresponding sanctions –, the more useless it becomes to refer to the interveners in the workplace in a separate provision. More important is to ensure the coverage of all areas of all economic sectors, in accordance with Article 2(1) of the Framework Directive 89/391/EEC.
	<b>Article 3 - Definitions</b>	
client – any natural or legal person that intends to develop an area (one or more land plots) and that filed a relevant application according to a statutory procedure;	1. Client - any natural or legal person on whose behalf the work is carried out.	The specifications that have been introduced are removed as they may restrict the application of the law. For example, the obligation to be in the presence of procedures with a legal framework - “statutory procedure” - would put aside, from the

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		jurisdiction of this law, any illegal works that might exist.
<p>project supervisor (construction consultant engineer) – a natural person with a qualification level confirmed by a third party or a legal person (engineering company having specialists with a qualification level confirmed by a third party), which, within powers delegated by the client, manages project implementation, advises the client on the choice of optimal ways of project implementation, makes relevant decisions on the client's behalf, or performs other functions;</p>	<p>2. Project supervisor (construction consultant engineer) – a natural person with a qualification level confirmed by a third party or a legal person (company having specialists with a qualification level confirmed by a third party), which, within powers delegated by the client, manages project implementation, advises the client on the choice of optimal ways of project implementation, makes relevant decisions on the client's behalf, or performs other functions;</p>	<p>The word engineering has been removed. Does it really have to be an engineering company? Can't it be a consulting company with engineers with the right qualifications? Or even with architects?</p>
<p>coordinator for workers' safety and health at the project design documentation development stage – a competent natural person with confirmed qualification or a legal person (having a specialist with confirmed qualification) that performs, at the project design documentation development stage, the tasks entrusted thereto by the client or project supervisor as laid down in <u>Section IV (1)</u> hereof;</p>	<p>3. Coordinator for <b>safety and health at project</b> stage - a competent natural person with confirmed qualification or a legal person (having a specialist with confirmed qualification) <b>entrusted by the client and/ or project supervisor</b>, that performs, at the project stage, the tasks as laid down in <b>Article 6 (1)</b> hereof;</p>	<p>The designation is huge and does not facilitate its memorization and future use. It was abbreviated. The design phase is the one that precedes the start of construction works. The word "workers" was removed. The scope of Directives 89/391/EEC, and all the subsequent individual Directives - namely the Directive 92/57/EEC -, as well as ILO Conventions' Occupational Safety and Health Convention, 1981 (No. 155), Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) and Safety and Health in Construction Convention, 1988 (No. 167) are about safety and health in workplaces. Moreover, what is about is an intrinsic occupational risk prevention system</p>

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		<p>that, in fact, has workers as final recipients, but whose rules are addressed to different stakeholders in workplaces, compelling to an effective management of safety and health in those same workplaces. Having workers as recipients, it would be reductive to name an entire architecture of professional risk prevention focusing only on them, even suggesting the latter as single actors and responsible for adopting the measures to be implemented.</p> <p>Finally, it is the coordinator who depends on the client/ project supervisor, not the tasks. These are plainly defined.</p>
<p>coordinator for workers' safety and health at the construction stage – a competent natural person with confirmed qualification or a legal person (having a specialist with confirmed qualification) that performs, at the construction stage, the tasks entrusted thereto by the client or project supervisor as laid down in <u>Section IV</u> hereof.</p>	<p>4. Coordinator for <b>safety and health</b> at the construction stage - a competent natural person with confirmed qualification or a legal person (having a specialist with confirmed qualification) <b>entrusted by the client and/ or project supervisor</b> that performs, at the construction stage, the tasks as laid down in <b>Article 6 (2)</b> hereof;</p>	<p>The word “workers” was removed. The scope of Directives 89/391/EEC, and all the subsequent individual Directives - namely the Directive 92/57/EEC -, as well as ILO Conventions' Occupational Safety and Health Convention, 1981 (No. 155), Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) and Safety and Health in Construction Convention, 1988 (No. 167) are about safety and health in workplaces. Moreover, what is about is an intrinsic occupational risk prevention system that, in fact, has workers as final recipients, but whose rules are addressed to different stakeholders in workplaces, compelling to an effective management of safety and health in</p>

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		<p>those same workplaces. It would be reductive to name the entire architecture of professional risk prevention as the minimum workers' safety and health requirements as these requirements, although intended for ensuring the safety and health of those who work in construction sites and, especially, of the workers, they have to apply not only to workers but also to others (e.g., client, project supervisor, coordinators for safety and health, general contractors, employers, self-employed persons).</p> <p>Finally, it is the coordinator who depends on the client/ project supervisor, not the tasks. These are plainly defined.</p>
<p>general contractor – a contractor that engages third parties (subcontractors) to perform works, remaining accountable to the client for results of their work;</p>	<p>5. General contractor - <b>any natural or legal person, hired directly by the client, who performs all or part of the construction or engineering work, which may also subcontract other entities for this purpose</b> (contractors and subcontractors), remaining accountable to the client for results of their work. Sometimes, it can simultaneously be the client.</p>	<p>A general contractor is generally a direct contractor - is a party who contracts with. Is hired directly by the owner of the property, the client. Is the prime contractor. The general contractor is the one with the main responsibility for the construction. Therefore, it is important to emphasize that it depends on the client and that he is hired by him.</p>
<p>contractor – a party to a contract that performs and transfers to the client the completed works (construction project) provided for by the contract.</p>	<p>6. Contractor - .....</p>	

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<p>site action plan on workers' safety and health (hereinafter referred to as the plan) – a written document that includes a package of measures aimed at preventing emergence of any occupational risks during the performance of works on a particular construction site, inter alia lays down workers' safety and health requirements to the general contractor, the contractor, the subcontractor and any natural persons as regards construction site organization, worksite organization, safe performance of works, operation of construction machines, electrical safety, etc.;</p>	<p><b>7. Safety and health plan</b> - It is a written document that includes a package of measures aimed at preventing occupational health and safety risks, either in the project stage, and during the execution of works on a specific construction site, identifying the occupational risks associated with the different phases of the constructive process, evaluating these risks and prescribing preventive measures aimed at eliminating or reducing these same occupational risks, thus contributing to ensure the safety and health of workers, including specific measures relating to works that imply special risks to the safety and health of these same workers.</p>	<p>The plan is not just a plan, but a safety and health plan. The SLS draft legal act only contains a safety and health plan, with no differentiation between two plans, a safety and health plan at project and another safety and health plan for the construction stage. In other words, there is a single document, a single safety and health plan. As such the word "site" has been deleted.</p> <p>According to the 4th paragraph of Article 4 of Directive 92/57/EEC, the safety and health plan must be taken into account also during the various stages of designing and preparing of the work project. Therefore, these risks must be also prevented at the project stage.</p> <p>Pursuant to Article 5(b) of the same Directive, the safety and health plan must indicate the rules applicable to the construction site in question; so, as it is a safety and health plan, the rules should be ones of safety and health.</p> <p>Pursuant to paragraphs 2 and 3 of Article 6 of the framework Directive 89/391/EEC, there are no preventive measures without prior identification and assessment of the existing risks, which must cover all works from the beginning to the conclusion of the construction work, without any exception.</p>
rooms – .....	8. Rooms- .....	

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designer - .....	9.Designer.....	
employer – the owner of an enterprise, institution or organization, or a body authorized thereby, regardless of the forms of ownership, activity or economic management type, or a natural person using hired labour;	10. Employer - any natural or legal person who, in the construction site, has an employment relationship with a worker - even if not assumed - and has the responsibility for all, or part, of the construction or engineering works.	Definition as in Article 3(b) of Directive 89/391/EEC, adapted to construction sites.
temporary or mobile construction sites (hereinafter referred to as construction sites)	11. ....	
self-employed person	12. ....	
<b>II. Organization of workers' safety and health management on a construction site</b>	<b>Article 4</b> - Organization of occupational safety and health management at a construction site	On the removal of the word "workers'", see the arguments previously expressed.
1. If building works will be or are being performed on a construction site by two or more contractors (including the general contractor), or the contractor and natural person(s), or natural persons, the client or the project supervisor shall appoint one or more coordinators for workers' safety and health matters at the project design documentation development stage and coordinators for workers' safety and health matters at the construction stage. The coordinator for workers' safety and health	1. If building works will be or are being performed on a construction site by two or more contractors (including the general contractor), or the contractor and natural person(s), or natural persons, the client or the project supervisor shall appoint one or more coordinators for safety and health at project stage and one or more coordinators for safety and health at the construction stage.	On the removal of the word "workers'", see the arguments previously expressed. The paragraph was enormous, and it was necessary to improve the systematics of the matters in question.

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<p>matters at the project design documentation development stage shall be appointed prior to development of the project design documentation, and the coordinator for workers' safety and health matters at the construction stage shall be appointed prior to commencement of building works. It shall be allowed to combine the duties of the coordinator for workers' safety and health matters at the project design documentation development stage and the coordinator for workers safety and health matters at the construction stage.</p>	<p>2. The coordinator for <b>safety and health at project</b> stage shall be appointed prior to development of the project design documentation, and the coordinator for <b>safety and health</b> at the construction stage shall be appointed prior to commencement of building works.</p> <p>3. It is allowed to combine the duties of the coordinator for <b>safety and health at project</b> stage and the coordinator for <b>safety and health</b> at the construction stage.</p>	
<p>2. The client or the project supervisor shall ensure that, prior to commencement of building works on the construction site, a site action plan on workers' safety and health is drawn up with account of the requirements of the state building codes ДБН А.3.2-2-2009 "System of occupational safety standards. Labour protection in industrial safety in construction".</p>	<p>4. The client or the project supervisor shall ensure that, prior to commencement of building works on the construction site, a <b>Safety and health</b> plan is drawn up with account of the requirements of the state building codes ДБН А.3.2-2-2009 "System of occupational safety standards. Labour protection in industrial safety in construction".</p>	<p>On the removal of the word "workers", see the arguments previously expressed.</p> <p>As for the mentioned requirements of the state building codes ДБН А.3.2-2-2009 "System of occupational safety standards. Labour protection in industrial safety in construction", they were not analyzed. Therefore, the national legislator should check the alignment of such regulation with the EU Acquis on OSH, in particular, with this Directive 92/57/EEC and, if necessary, to amended in order to ensure its alignment.</p>
<p>3.The client.....Annex II.....:</p>	<p>5. The client.....Annex I.....:</p>	<p>Annex I, has been renumbered.</p>

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<p>the building works are scheduled to last longer than 30 working days and more than 20 workers and natural persons will be employed in the works simultaneously; or</p> <p>the volume of building works is scheduled to exceed 500 person-days.</p>	<p>1) the building works are scheduled to last longer than 30 working days and more than 20 workers and natural persons will be employed in the works simultaneously; or</p> <p>2) the volume of building works is scheduled to exceed 500 person-days.</p>	<p>It is necessary to identify the different provisions.</p>
<p>4. <i>(The SLS draft legal act deleted this n.º 4 from the current order of MSP).</i></p>	<p>6. One copy of the Prior Notice must be clearly displayed by the client or the project supervisor on the construction site, in a place visible to all construction participants</p>	<p>These deleted dispositions (no. 4 and no. 5) are important and are contained in Article 3(3) of Directive 92/57/EEC. Its display in a visible place is also a form of transparency and self-control of the reality of each construction site. As such this provision must be maintained.</p>
<p>5. <i>(The SLS draft legal act deleted this n.º 5).</i></p>	<p>7. The Prior Notice displayed on the construction site must be periodically updated, if necessary.</p>	<p>These deleted dispositions (no. 4 and no. 5) are important and are contained in Article 3(3) of Directive 92/57/EEC. It will be natural for this document to change frequently. For example, whenever a new employer enters a construction site, or if a deadline for the works changes. As such this provision must be maintained.</p>
<p><b>III. Consideration of workers' safety and health matters during project design development</b></p>	<p><b>Article 5</b> - Consideration of occupational safety and health matters during project stage.</p>	<p>On the removal of the word "workers", see the arguments previously expressed.</p>
<p>1. The project supervisor, or the client acting as the project supervisor, and the designer shall take account, during the various stages</p>	<p>1. The project supervisor, or the client acting as the project supervisor, and the designer shall take account, during the various phases</p>	<p>As for the expression "general provisions on workers' safety and health", their wording should be changed, because, in its content,</p>

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<p>of preparing and developing project design documentation, of the general provisions on workers' safety and health laid down in <u>Section VI</u> hereof, in particular:</p>	<p>of the project stage, of the general principles of prevention applied to the concrete reality of the construction site, laid down in Article 6 hereof, in particular:</p>	<p>there are some technical provisions together with the so-called general principles of prevention (GPP), as enshrined in the framework Directive 89/391/EE, in its paragraph 2 of Article 6. It is therefore important to emphasize the GPP. They are the pillars of safety and health.</p>
<p>when architectural, technical and/or organizational aspects are being decided, in order to distribute various works or work stages, and to define works which can take place simultaneously or in succession;</p> <p>when estimating the period required for completing various works or work stages</p>	<p>1) When.....;</p> <p>2) When .....</p>	<p>It is necessary to identify the different provisions.</p>
<p>2. The project supervisor, or the client acting as the project supervisor, and the designer shall also take account, during the various stages of preparing, developing and adjusting project design documentation, of the requirements of the site action plan on workers' safety and health, a document drawn up according to <u>Section IV(1)(3)</u> hereof, considering requirements laid down in <u>Section IV(2)(3)</u> hereof.</p>	<p>2. The project supervisor, or the client acting as the project supervisor, shall also take account, during the various phases of the project stage, of the requirements of the safety and health plan, a document drawn up according to Article 6 (1)(2) hereof, considering requirements laid down in Article 7 (8) hereof.</p>	<p>On the removal of the word "workers", see the arguments previously expressed.</p>

<p><b>IV. Coordinator for workers’ safety and health matters</b></p>	<p><b>Article 6 - Coordinator for <del>worker’</del> safety and health matters</b></p>	<p>To remove the word “worker’s”, reasons already mentioned above.</p>
<p>1. The coordinator for workers’ safety and health matters at the project design documentation development stage shall:</p>	<p>1. The coordinator for <b>safety and health at project</b> stage shall:</p>	<p>On the removal of the word "workers", see the arguments previously expressed</p>
<p>1) .....</p>	<p>.....;</p>	
<p>2) draw up, or cause to be drawn up, a site action plan on workers’ safety and health setting out all the necessary workers’ safety and health requirements concerning the given site and those works which will take place on it, specifically providing for detailed workers’ safety and health measures for any building works mentioned in the list of building works involving particular risk to the life and health of workers, provided in <u>Annex 3</u> hereto (hereinafter referred to as the List of Building Works);</p>	<p>2) Draw up, or cause to be drawn up, a <b>Safety and health</b> plan setting out all the necessary <b>occupational safety and health</b> requirements concerning the given site and those works which will take place on it, specifically providing for detailed <b>labour prevention</b> measures for any building works mentioned in the list of building works involving particular risk to the life and health of workers, provided in Annex <b>II</b> hereto (hereinafter referred to as the List of Building Works <b>with particular risks</b>);</p>	<p>On the removal of the word "workers", see the arguments previously expressed. It is also added to the list of construction works their characterization as “special risks”, since, firstly, they are special risks that are thus referred to in the Directive 92/57/EEC and, secondly, not to be confused with the list of works in article II.</p>
<p>3) draw up documentation appropriate to the specifics and conditions of the project containing relevant workers’ safety and health information, which shall be used during the performance of the works mentioned in the <u>List of Building Work Types</u>, during operation of the project</p>	<p>3) Draw up documentation appropriate to the specifics and conditions of the project containing relevant <b>safety and health</b> information, which shall be used during the performance of the works mentioned in the List of Building Work Types, during operation of the project (hereinafter referred to as the documentation);</p>	<p>On the removal of the word "workers", see the arguments previously expressed.</p>

(hereinafter referred to as the documentation);		
4) hand over the site plan on workers' safety and health and the documentation mentioned in para. 3) above to the coordinator for safety and health at the construction stage.	4) Hand over the <b>safety and health</b> plan and the documentation mentioned in paragraph 3) above to the coordinator for safety and health at the construction stage.	The words "site" and "workers" have been deleted. The SLS draft legal act only contains a safety and health plan, with no differentiation between two plans, a safety and health plan at project and another safety and health plan for the construction stage. In other words, there is a single document, a single safety and health plan. As such the word "site" has been deleted. See also the arguments previously expressed to the removal of the term "workers".
2. The coordinator for workers' safety and health matters at the construction stage shall:	2. The coordinator for <b>safety and health</b> at the construction stage shall:	Regarding the removal of the word "workers", see the rationale previously expressed.
coordinate implementation of the general labour protection requirements according to <u>Section VI</u> hereof when technical and/or organizational solutions are chosen, in order to plan the various works or work stages that can take place simultaneously or in succession, and when estimating the period required for completing such work or work stages;	<p>1) Coordinate implementation of the <b>general principles of prevention applied to the concrete reality of the construction site</b>, according to <b>Article 8</b> hereof</p> <ul style="list-style-type: none"> <li>i. when technical and/or organizational solutions are chosen, in order to plan the various works or work stages that can take place simultaneously or in succession,</li> <li>ii. when estimating the period required for completing such work or work stages;</li> </ul>	<p>As for the expression "general labour protection requirements", their wording should be changed. The name of these "general principles" in Directive 89/391/EEC is different, but very precise and should be used, since they are principles that are contained in that same Directive: they are the GPP concerning safety and health, contained in its paragraph 2 of Article 6.</p> <p>A paragraph was split with the introduction of two dashes, to underline the tasks and make the text more understandable.</p> <p>Furthermore, the measures to be adopted are preventive measures, in order to prevent the</p>

		occurrence of work accidents and occupational diseases. These are not mere protective measures. They are preventive measures adopted upstream of a possible nefarious event. Thence the wording of Directive 89/391/EEC which designates all these measures as "preventive". This word - prevention - illustrates the philosophy of the entire architecture of safety and health, both in the framework Directive and in all individual Directives that have emanated from it.
2) coordinate implementation of the measures aimed at ensuring that contractors and natural persons comply with requirements of <u>Section VI</u> hereof, the site action plan on workers' safety and health, and the regulatory legal acts on workers' safety and health;	2) Coordinate implementation of the measures aimed at ensuring that contractors and natural persons comply with requirements of <b>Article 8</b> hereof, the <b>safety and health</b> plan, and the regulatory legal acts on <b>occupational safety and health</b> ;	Regarding the removal of the terms "site" and "workers", see the rationales previously expressed.
3) make, or cause to be made, any adjustments required to the site action plan on workers' safety and health and the documentation referred to in para. 1(3) of this Section, with account of the progress of the works and any changes which have occurred, particularly in project design documentation;	3) Make, or cause to be made, any adjustments required to the <b>safety and health</b> plan and the documentation referred to in subparagraph 3) of paragraph 1 of this <b>Article</b> , with account of the progress of the works and any changes which have occurred, particularly in project design documentation;	Regarding the removal of the terms "site" and "workers", see the rationales previously expressed.
4) .....	.....;	
5) agree upon the contractors' measures for workers' safety and health, particularly	5) Agree upon the contractors' labour <b>prevention</b> measures, particularly those	The wording " <i>agree upon the contractors measures for workers' safety and health</i> " is

those provided for in work performance projects and process cards, and check their implementation accordingly;	provided for in work performance projects and process cards, and check their implementation accordingly;	not entirely incorrect, but technically doesn't sound very good. In this case, the expression "preventive" measures is preferable.
6) coordinate the exercise by contractors of control of compliance with the prescribed workers' safety and health requirements during performance of works;	6) Coordinate the exercise by contractors of control of compliance with the prescribed <b>occupational safety and health</b> requirements during performance of works;	Regarding the removal of the word "workers", see the rationale previously expressed.
7) define, together with contractors and natural persons, a procedure of admitting workers to the construction site, using collective and personal protective equipment and lifting mechanisms by workers, conditions for connection to power supply lines, etc.;	7) Define, together with contractors and natural persons, the procedure for admitting workers to the construction site, <b>ensuring them the necessary initial training and information, namely, in the use</b> of collective and individual protection equipment, lifting mechanisms by workers, the conditions of connection to the power cables, etc.;	The wording is not very evident. It changed in order to better understand its meaning.
8).....;	8) .....	
3. To perform their duties, the coordinators for workers' safety and health matters shall:  take part in all stages of project design documentation development and performance of building works;  obtain information and documents necessary for them to perform their duties from the designer and contractors.	3. To perform their duties, the coordinators for <b>safety and health</b> shall:  i. take part in all <b>phases</b> of project <b>stage</b> and performance of building works; ii. obtain information and documents necessary for them to perform their duties from the <b>project supervisor/client</b> , designer and contractors.	Concerning the removal of the word "workers", see the rationale previously expressed. As it was already mentioned, the designation "project design documentation development" is huge and does not facilitate its memorization and future use. It was abbreviated to project stage. The project supervisor or the client will have also to provide the coordinators for safety and health with all the documentation and information necessary for the development of their missions.

<p>4. The coordinators for workers’ safety and health matters shall have adequate training to perform their functions, namely:</p> <p style="padding-left: 40px;">higher education in a relevant field;</p> <p style="padding-left: 40px;">at least 5 years of professional experience in architecture, construction, or construction site management;</p> <p style="padding-left: 40px;">qualification in the workers’ safety and health engineer (construction) profession confirmed by an independent body.</p>	<p>4. The coordinators for <b>safety and health</b> shall have adequate training to perform their functions, namely:</p> <p style="padding-left: 20px;">i) .....</p> <p style="padding-left: 20px;">ii) .....</p> <p style="padding-left: 20px;">iii) qualification in <b>occupational safety and health engineering</b> (construction) profession confirmed by an independent body.</p>	<p>Concerning the removal of the word "workers", see the rationale previously expressed. Besides, the expression “workers’ safety and health engineer” becomes even less plausible: engineering in workers...</p>
<p><b>V. Site action plan on workers’ safety and health</b></p>	<p><b>Article 7 - Safety and health plan</b></p>	<p>Regarding the removal of the terms “site” and "workers", see the rationales previously expressed.</p>
<p>1. The plan shall be developed simultaneously with the project design documentation and completed prior to commencement of any work on the construction site. The plan must be executed timely during the entire period of works on the construction site. If conditions of the project design documentation or of the construction change, the plan must be adjusted.</p>	<p>1. The <b>safety and health</b> plan shall be developed simultaneously with the project and completed prior to commencement of any work on the construction site. The <b>safety and health</b> plan must be executed timely during the entire period of works on the construction site. If conditions of the project or of the construction change, the plan must be adjusted.</p>	<p>To streamline, the words “design documentation” were deleted, which justification was already mentioned above.</p>
<p>2. Development of the plan shall be ensured by the client or the project supervisor.</p>	<p>2. Development of the <b>safety and health</b> plan shall be ensured by the client or the project supervisor.</p>	<p>It's not just a plan, it's a safety and health plan. There will certainly also be other types of plans in the construction sites.</p>
<p>3. If no coordinators are appointed as per <u>Section II(1)</u> hereof because works are</p>	<p>3. If no coordinators <b>for safety and health</b> are appointed as per <b>Article 4(1)</b> hereof</p>	<p>They are safety and health coordinators.</p>

carried out by one contractor, the plan shall be developed by the designer.	because works are carried out by one contractor, the <b>safety and health</b> plan shall be developed by the designer.	
4. Process design documents may not replace the plan.	4. Process design documents may not replace the <b>safety and health</b> plan.	It's not just a plan, it's a safety and health plan. There will certainly also be other types of plans in the construction sites.
5. If the necessary information is included in project design or process design documentation or in other documents, the plan may only contain references to places where such information can be found.	5. If the necessary information is included in project documentation or in other documents, the plan may only contain references to places where such information can be found, <b>if this does not jeopardize the perceptibility of the safety and health plan and the completion of the measure's constants in it.</b>	To understand the logic of a workplace, sometimes it may be necessary to have the information all together. Very often, the coherence of processes can only be immediately understood against a fully described context. It is important not to forget that this is a document to be consulted by all employers present at the construction site, as well as by self-employed persons.
6. The plan shall be developed subject to the requirements of the regulatory legal acts on workers' safety and health and the state sanitary rules and regulations.	6. The <b>safety and health</b> plan shall be developed subject to the requirements of the regulatory legal acts on <b>occupational safety and health</b> and the state sanitary rules and regulations.	It's not just a plan, it's a safety and health plan. There will certainly also be other types of plans in the construction sites. Regarding the removal of the term "workers", see the rationale previously expressed.
7. Development of the plan shall take account of all the activities undertaken on the construction site, and identify all the areas where works referred to in the <u>List of Building Works</u> are carried out.	7. Development of the plan shall take account of all the activities undertaken on the construction site, and identify all the areas where works referred to in the List of Building Works <b>with particular risks - in Annex II</b> - are carried out.	It is added to the list of construction works their characterization as "special risks", since, firstly, they are "special risks" that are being referred to in the Directive 92/57/EEC and, secondly, not to be confused with the list of works in Article 2 - List of Building Work Types.

8. The plan shall contain:	8. The <b>safety and health</b> plan shall contain:	It's not just a plan, it's a safety and health plan. There will certainly also be other types of plans in the construction sites.
general information.....;	1) General information.....;	
general procedure for organization of workers' safety and health on the construction site;	2) General procedure for organization of <b>occupational safety and health</b> at a construction site;	Regarding the removal of the term "workers", see the rationale previously expressed.
workers' safety and health requirements for the organization of the construction site, including for sanitary and welfare services, place and means of material storage, .....	3) <b>Safety and health</b> requirements for the organization of the construction site, including for sanitary and welfare services - <b>rest rooms with beds, showers, changing rooms, suitable eating spaces</b> -, place and means of material storage, .....	Regarding the removal of the term "workers", see the rationale previously expressed. The rest rooms, accommodation areas, showers, changing rooms, and suitable places to eat, are in the Annex IV of the Directive 92/57/EEC. So, the respective words were added.
list of occupational risks likely to emerge;	4) List of.....:	
specific measures aimed at removing or reducing occupational risks;	5) Specific measures.....;	
specific measures concerning the works falling within one or more categories referred to in the <u>List of Building Works</u> ;	6) Specific measures concerning the works falling within one or more categories referred to in the List of Building Works <b>with particular risks</b>	Concerning the mention to "particular risks", see above justification.
requirements to .....	7) requirements to .....	
measures for .....	8) measures for .....	
general measures .....	9) General measures .....	
measures concerning .....	10) Measures concerning .....	
actions in case of .....	11) Actions in case of .....	

procedure for .....	12) Procedure for .....	
possible risk factors likely to emerge during building works because of the use of materials harmful to health, mentioned in the project design documentation, and necessary regulatory legal acts on this subject;	13) Possible risk factors likely to emerge during building works because of the use of materials harmful to health, mentioned in the project, and necessary regulatory legal acts on this subject;	To streamline, the words “design documentation” were deleted, which justification was already mentioned above.
location of .....	14) Location of .....	
means of .....	15) Means of .....	
ways and means .....	16) Ways and means .....	
conditions for the .....	17) Conditions for the .....	
conditions for possible .....	18) Conditions for possible .....	
conditions for disposal, .....	19) Conditions for disposal, .....	
conditions for connection .....	20) conditions for connection .....	
process for endorsement of the worker’s safety and health measures provided for in the plan, and exchange of relevant information among the client, the project supervisor, the contractors, and the natural persons;	21) Process for endorsement of the labour prevention measures provided for in the plan, and exchange of relevant information among the client, the project supervisor, the contractors, and the natural persons;	Regarding the removal of the term "workers", see the rationale previously expressed.
recommendations on worker’s safety and health measures for the contractors.	22) Recommendations on labour prevention measures for the contractors.	Regarding the removal of the term "workers", see the rationale previously expressed.
	23) Information and training systems for all workers present on the construction site in matters of prevention of occupational risks;	It is important that the coordinator for safety and health is able to prove his activities and compliance with his obligations, either to be

	<p>24) Written record of the activities of the coordinator for safety and health, including:</p> <ul style="list-style-type: none"> <li>i) all activities set out in Article 6;</li> <li>ii) the activities of the general contractor, contractors and self-employed persons with regard to ensuring compliance with what is determined in the safety and health plan.</li> </ul>	<p>able to prove them to the client and the Project supervisor - also to the labour inspectors -, or to discipline himself and discipline all employers and self-employed persons engaged on the construction site. When having to show their activities, the coordinator for safety and health will always have greater discipline in developing them systematically and in a structured way.</p>
9. The plan must be .....	9. The <b>safety and health</b> plan must be.....	Regarding the expression “plan”, see also the above rationale.
10. The plan shall be signed by the coordinator for worker’s safety and health matters at the project design documentation development stage or, in the case referred to in para. 4 of this Section, by the designer, and approved by the client or the project supervisor.	10. The <b>safety and health</b> plan shall be signed by the coordinator for <b>safety and health at the project stage</b> and by the coordinator for <b>safety and health at construction stage</b> and approved by the client or the project supervisor or, in the case referred to in paragraph 3 of this <b>Article</b> , by the designer, and approved by the client or the project supervisor.	<p>Regarding the expression “plan” and the removal of the word “workers” see the rationales above.</p> <p>It makes no sense for the coordinator for safety and health at the project stage to sign the safety and health plan alone. The employer must then, in advance, also appoint the coordinator for safety and health at construction stage, thus obliging him to also be responsible for the document. This way he will know exactly how to adapt the document when work on the construction site has started.</p>
<b>VI. Use of the general provisions on worker’s safety and health</b>	<b>Article 8 - General principles of prevention applied to the concrete reality of the construction site.</b>	<p>As for the expression "general provisions on labour protection", its wording was changed, with its justification being mentioned above. Regarding the removal of the term "workers", see the rationale previously expressed.</p> <p>As for the GPP, they must be included in the title since they appear in the body of the</p>

		Article. Reinforces the importance of employers and independent workers have to comply with.
1. During the performance of construction works, general workers' safety and health provisions shall be complied with, particularly with regard to:	1. During the performance of construction works, <b>safety and health provisions applied to a construction site</b> shall be complied with, particularly with regard to:	Regarding the removal of the term "workers", see the rationale previously expressed.
avoiding occupational risks;	<b>1) Avoiding occupational risks;</b>	All paragraphs are identified with numbers.
evaluating the occupational risks which cannot be avoided;	<b>2) Evaluating the occupational risks which cannot be avoided;</b>	
eliminating hazards;	<b>3) Combating the risks at source and reducing those risks that cannot be eliminated;</b>	In this case, the technically correct expression in terms of safety and health at work is really "risks" and not "hazards". By definition, "hazard" is different from "risk": while "hazard" is something that can cause harm (e.g. electricity, chemicals, working up a ladder, noise, a keyboard, a bully at work, stress, etc.), a "risk" is the chance, high or low, that any hazard will actually cause someone harm. Accordingly, the word "hazard" has been replaced by "risks". Meanwhile, it should not to be assumed that all existing risks can be eliminated. For example, the risk of falling from height in construction sites, in many cases, can't be eliminated and should then be minimized, to the lowest degree that is technically possible.

adapting the work to the individual, especially as regards the design of workstations, .....	4) Adapting the work to the individual, especially as regards the design of workplaces, .....	Workplaces involve workstations. The 92/57/EEC Directive's terminology in this case is workplaces. (the design of the workstations is encompassed in the workplace design).
adapting to technical progress;	5) Adapting .....	
replacing the .....	6) Replacing.....	
planning .....	7) Planning.....	
giving collective.....	8) Giving collective.....	
giving instructions on workers' safety and health;	9) Given occupational safety and health instructions to the workers;	What the Article 6(2)(i) of Directive 89/391/EEC intends is that instructions are given to the workers and not to give instructions on the safety and health of workers. Different messages are translated with different wordings. The focus is the worker, not the message/ instructions. The instructions that are mentioned here and that are transmitted to the workers, are within the specific scope of safety and health at work. Of course, generic instructions in the productive sphere are also transmitted to workers. But these are not what we are talking about here. So, this specific scope should be mentioned. As for the terms "protection" and "safety and health", the justifications have already been presented previously.
keeping .....	10) Keeping.....	

choosing .....	11) Choosing.....;	
	12) The conditions under which various materials are handled;	Is in Article 8(c) of the Directive 92/57/EEC. It does not appear in the proposed wording of the Draft legal act proposed by SLS.
technical maintenance, commissioning, and technical inspection of machinery, mechanisms and equipment to avoid any danger to life and health of workers in their operation;	13) technical maintenance, pre-commissioning, and regular technical inspection of machinery, mechanisms and equipment to avoid any danger to life and health of workers in their operation;	It is important to mention that inspections are also carried out before the installations and equipment come into operation (before commissioning). In addition to being a technical requirement, it is also included in Article 8(d) of the Directive 92/57/EEC.
conditions for separate storage of various materials, in particular where dangerous materials or substances are concerned;	14) The demarcation and laying-out of areas for separate storage of various materials, in particular where dangerous materials or substances are concerned;	“Conditions” is a very imprecise word. The aim is, in fact, to delimit and organize specific storage areas - Article 8(e) of the Directive 92/57/EEC.
requirements concerning removal of remaining materials and substances;	15) Requirements concerning removal of remaining materials and substances, namely, dangerous ones.	It is necessary to emphasize the hazardous materials and substances, even if the intent of the wording was to cover everyone, whether hazardous or not - Article 8(f) of the Directive 92/57/EEC
requirements .....	16) Requirements.....;	
adaptation of the period .....	17) Adaptation.....;	
cooperation between .....	18) Cooperation .....	
2. ....		
<b>VII. Obligations of the client and the project supervisor</b>	<b>Article 9 - Obligations of the client and of the project supervisor</b>	Numbering changed
1. In order to organize workers’ safety and health measures and preserve life and	1. In order to organize safety and health at work and preserve life and health of workers	Regarding the removal of the term "workers", see the rationale previously expressed.

health of workers on the construction site, the client or the project supervisor shall:	on the construction site, the client or the project supervisor shall:	
organize compliance of contractors and natural persons with the workers' safety and health requirements according to <u>Section VI</u> hereof;	1) Organize compliance of contractors and natural persons with the <b>safety and health</b> requirements according to <b>Article 8</b> hereof.	All paragraphs are identified with numbers. Regarding the removal of the term "workers", see the rationale previously expressed.
cooperate with the coordinators for workers' safety and health matters, and consider in their work the comments provided by the coordinators.	2) Cooperate with the coordinators for <b>safety and health</b> , and consider in their work the comments provided by the coordinators.	Regarding the removal of the term "workers", see the rationale previously expressed.
	3) <b>Where a client or project supervisor has appointed a coordinator, or coordinators, to perform the duties referred to in Article 6, this does not relieve the client or project supervisor of his responsibilities in that respect.</b>	Notwithstanding the responsibilities of safety and health coordinators, the responsibility of the client and the project supervisor is predominant and cannot be delegated to third parties - see Article 7(1) of Directive 92/57/EEC. This provision is not included in the Draft legal act proposed by SLS .
2. The client or the project supervisor shall also organize workers' safety and health management on the construction site, implementation of the general workers' safety and health measures as proposed by the coordinator for workers' safety and health matters at the construction stage, and execution of the site plan on workers' safety and health.	2. The client or the project supervisor shall also organize <b>occupational safety and health</b> management on the construction site, implementation of the <b>general principles of prevention applied to the construction site</b> as proposed by the coordinator for <b>safety and health</b> at the construction stage, and execution of the <b>safety and health</b> plan.	Regarding the deletion of the words "site" and "workers'", see justifications above. Concerning the wording of the sentence "general principles of prevention applied to the construction site" see also the rationale overhead.

<p><b>VIII. Obligations of the contractor</b></p>	<p><b>Article 10 - .....</b></p>	<p>Renumbering of the article due to changes introduced.</p>
<p>1. In order to ensure workers’ safety and health on the construction site the contractors, the general contractor, and the subcontractors shall comply with the requirements laid down in <u>Sections XII, XIII, XIV</u> hereof, in the site action plan on workers’ safety and health, and in the regulatory legal acts on workers’ safety and health.</p>	<p>1. In order to ensure workers’ safety and health on the construction site the contractors, the general contractor, and the subcontractors shall comply with the requirements laid down in <b>Articles 14, 15, and 16</b> hereof, in the <b>safety and health</b> plan, and in the regulatory legal acts on <b>occupational safety and health</b>.</p>	<p>Regarding the deletion of the words “site” and “workers”, see justifications above. Concerning the “plan”, it's not just a plan, it's a safety and health plan. There will certainly also be other types of plans in the construction sites.</p>
<p>2. The contractors, the general contractor, and the subcontractors shall, according to the conditions laid down in <u>Section IV</u> hereof, comply with demands of the coordinators for workers’ safety and health matters.</p>	<p>2. The contractors, the general contractor, and the subcontractors shall, according to the conditions laid down in Article 6 hereof, comply with the demands of the coordinators for <b>safety and health</b>.</p>	<p>Regarding the deletion of the word “workers”, see justification above. Likewise, the safety coordinator is the coordinator of safety and health activities and not the safety and health of workers. These have to be coordinated by the respective employers.</p>
	<p><b>3. The implementation of Article 6 and Article 9 shall not affect the principle of employers’ responsibility for ensuring the safety and health of the workers in all aspects related to work, as provided for in the Law of Ukraine “On Occupational Safety and Health of Workers”, which implements the provisions of the Council Directive 89/391/EEC, of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health at work, in particular, for assessing the risks to the safety and health of workers and for</b></p>	<p>It is vital to stress the non-delegable responsibility that each employer has to ensure the safety and health working conditions of their own workers - see Article 7(2) of the Directive 92/57/EEC and Article 6 of Directive 89/391/EEC. This provision was not included in the Draft legal act proposed by SLS.</p>

	taking the necessary preventive and protective measures.	
<b>IX. Obligations of the natural persons</b>	<b>Article 11</b> -.....	Renumbering of the article due to changes introduced.
1. ....; <u>Law of Ukraine</u> .....; <u>General requirements</u> .....; these .....; ДБН .....; <u>Labour protection</u> .....;	..... 1) Law of.....; 2) General requirements.....; 3) These.....; 4) ДБН.....; 5) National legal act transposing to the internal juridical order of Ukraine 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 (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC);	All paragraphs are identified with numbers.
requirements of the regulatory legal acts on high-risk works and operation of high-risk machinery, mechanisms and equipment, use of production equipment by workers, use of collective and personal protective equipment, and requirements of other regulatory legal acts on workers' safety and health;	6) Requirements of the regulatory legal acts on high-risk works and operation of high-risk machinery, mechanisms and equipment, use of <b>production work</b> equipment by workers, use of collective and personal protective equipment, and requirements of other regulatory legal acts on <b>occupational safety and health</b> ;	Regarding the deletion of the word "workers", see justification above. In addition, the term "production equipment" should be corrected and replaced by the term "work equipment", in order to align with the EU OSH Acquis and, in particular, with EU Directive 2009/104/EC, on the minimum safety and health requirements for the use of work equipment by workers at work.

<p>when simultaneously performing work with workers of contractors, cooperate with them in implementation of workers' safety and health requirements, coordinate their actions with account of the nature of activities for protection against hazards and prevention of production risks, and inform of the risks;</p>	<p>7) When simultaneously performing work with workers of contractors, cooperate with them in implementation of <b>safety and health</b> requirements, coordinate their actions with account of the nature of activities for <b>prevention from and protection against occupational risks</b>, and inform of the <b>same</b> risks;</p>	<p>Regarding the deletion of the word "workers", see justification above. About the term "hazards", see also the above justification. In addition, the expression "production risks" should be replaced by "occupational risks" or, at least, "professional risks", as the risks are not necessarily "production" risks. They might be associate to other activities which are not production activities.</p>
<p>take care of their own safety and health and that of other persons likely be affected by the worker's acts or omissions at work, in accordance with their training and with the demands of clients or project supervisors and coordinators for workers' safety and health matters.</p>	<p>8) Take care of their own safety and health and that of other persons likely be affected <b>due to acts and omissions resulting from inadequate conditions at work</b> in accordance with their training and with the demands of clients or project supervisors and coordinators for <b>safety and health</b>.</p>	<p>The spirit of the Framework Directive 89/391/EEC and all resulting Directives is to focus responsibilities on the employer - see Articles 5 and 6 - and on the entire subcontracting chain, which starts with the client. Naturally, workers also have obligations - Article 15 of that Directive. However, it is contrary to the spirit of the Directive to assume from the outset that the worker has had flaws and omissions in the field of safety and health at work. On the contrary. There must, however, exist a planning of safety and health at work duly integrated into each technical gesture, accompanied by the necessary training and information for workers. For a liability to be attributed to a worker - an omission or a harmful act - it will be necessary that nothing has failed in the entire chain of responsibilities, which starts with the client,</p>

		<p>goes through the general contractor, going to the contractor/employer, not forgetting the safety and health coordinators. Furthermore, this can only be ascertained in the workplace accident investigation. By the way, do not forget that, for the purposes of labour legislation, a “natural person” is not the same as a “worker” and the wording of the provision as it is - containing the word “worker” -, could lead also to misunderstanding.</p> <p>Regarding the deletion of the word “workers”, see justification above.</p>
<p>2. For that purpose, natural persons shall, in accordance with their training and with the demands of clients or project supervisors and coordinators for workers’ safety and health matters:</p>	<p>2. For that purpose, natural persons shall, in accordance with their training and with the demands of clients or project supervisors and coordinators for <b>safety and health</b>:</p>	<p>Regarding the deletion of the word “workers”, see justification above. Likewise, the safety coordinator is the coordinator of safety and health activities and not the safety and health of workers. These have to be coordinated by the respective employers.</p>
<p>make correct.....;</p> <p>make correct .....</p> <p>refrain from .....</p> <p>immediately inform .....</p>	<p><b>1)</b>Make correct.....;</p> <p><b>2)</b> Make correct use.....;</p> <p><b>3)</b> Refrain from.....;</p> <p><b>4)</b> Immediately inform.....</p>	<p>All paragraphs are identified with numbers.</p>
<p><b>X. Information for workers</b></p>	<p><b>Article 12 -</b> .....</p>	<p>Renumbering of the article due to changes introduced.</p>
<p>1.....</p>	<p>.....</p>	
<p>2. ....</p>	<p>.....</p>	

<b>XI. Consultation of workers</b>	<b>Article 13 - .....</b>	Renumbering of the article due to changes introduced.
1. Consultation and participation of workers and/or their representatives in addressing the matters covered by <u>Sections IV, VI and VIII</u> hereof shall take place in accordance with the following principles:	1. Consultation and participation of workers and/or their representatives in addressing the matters covered by <b>Articles 6, 8 and 9</b> hereof shall take place in accordance with the following principles:	Renumbering of the articles due to changes introduced.
1) .....	.....;	
<p>2) workers or their representatives with specific responsibility for workers' safety and health shall take part in a balanced way, or shall be consulted by the employer with regard to:</p> <p>any measure which may substantially affect safety and health;</p> <p>designation of, and provision of information to, workers;</p> <p>the enlistment, where appropriate, of the external services or specialists to the enterprise and/or establishment;</p> <p>the planning and organization of the training;</p>	<p>2) Workers or their representatives with specific responsibility for workers' safety and health shall take part in a balanced way, or shall be consulted <b>in advance and in a good time</b> by the employer with regard to:</p> <p>i. any .....</p> <p>ii. <b>the designation of workers;</b></p> <p>iii. the provision of information;</p> <p>iv. the enlistment, .....</p> <p>v. the planning and organization of the training.</p>	<p>The words in "advance and in a good time" were also added, as it is not enough to consult workers. In order for this consultation to be effective and useful, it must be carried out prior to the adoption of a decision. Otherwise it becomes useless. Furthermore, this is well expressed in the wording of Directive 89/391/EEC.</p> <p>The designation of workers was separated from the information to workers, because the wording was not clear.</p>
3) workers' representatives shall have the right to approach the employer with suggestions as regards taking appropriate preventive measures and preventing any	3) Workers' representatives have the right to <b>ask the employer to take the appropriate preventive measures, to submit proposals for this purpose, in order to mitigate the</b>	As provided for in Article 11 of Directive 89/391/EEC, it is not just a matter of workers' representatives being able to make a simple "approach" to the employer, but rather of being able to make concrete proposals and ask him to take the appropriate preventive

danger for workers and/or removing sources of danger;	risks to the workers and/or removing the sources of danger.	measures. The word approach does not translate what the legislator intends. In fact, the legislator wants the workers' representatives to be able to ask the employer to even take concrete measures, also presenting concrete proposals.
4) .....	.....;	
5) .....	.....;	
6) .....	.....;	
7) .....	.....;	
2. ....	.....	
<b>XII. Minimum requirements for on-site workplaces</b>	<b>Article 14 -</b> .....	Renumbering of the article due to changes introduced.
<b>1. Stability and solidity</b>	.....	
1. Building structures, equipment and materials which, when changing their place or position, may affect the safety and health of workers must be stabilized in an appropriate and safe manner.	<b>1)</b> Building structures, equipment, materials and <b>any component</b> , which, when changing their place or position, may affect the safety and health of workers must be stabilized in an appropriate and safe manner.	"Any component" was added to reinforce that all the existing elements of a construction site are being covered. In addition, and regarding Articles 14, 15 and 16, all the subparagraph are renumbered (for example, from "1." to "1)"), in order to improve clarity, avoiding the attribution of the same number ("1.") to the paragraph and to the subparagraph of the same Article.
2. Access to .....	<b>2)</b> Access to.....	
<b>2. Energy distribution installations</b>	.....	
1. The installations must.....	<b>1)</b> The installations must.....	

<p>2.The design, construction and choice of equipment and protection devices must take account of the type and power of the energy distributed, potentially influencing external conditions and the competence of persons with access to parts of the installation.</p>	<p>2) The design, construction and choice of equipment and protection devices must take account of the type and power of the energy distributed, <b>external conditions</b> and the competence of persons with access to parts of the installation.</p>	<p>It is not the design, construction and choice of material and protective devices that influence external conditions; it is rather the external conditions that influence the design, construction and choice of material and protection devices - Annex IV, Part A, 2(2.2) of Directive 92/57/EEC.</p>
<p><b>3. Evacuation routes and emergency exits</b></p>	<p>.....</p>	
<p>1 .....</p>	<p>1).....</p>	<p>To renumber the subparagraphs in order to improve clarity, avoiding the attribution of the same number to the paragraph and to the subparagraph of the same Article.</p>
<p>2.....</p>	<p>2) .....</p>	
<p>3.....</p>	<p>3) .....</p>	
<p>4.....</p>	<p>4) National legal act transposing to the internal juridical order of Ukraine the Council Directive 92/58/EEC, of 24 June 1992, on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC).</p>	
<p>5.....</p>	<p>5) .....</p>	
<p>6.....</p>	<p>6) .....</p>	
<p><b>4. Fire detection and fire fighting</b></p>	<p>.....</p>	
<p>1.....</p>	<p>1).....</p>	

2.....	2) .....	
3.....	3) .....	
<b>5. Ventilation requirements</b>		
1.....	1).....	
2.....	2) .....	
3.....	3) .....	
<b>6. Performance of work with exposure to particular hazard types</b>	<b>6. Performance of work with exposure to particular risks types</b>	Directive 92/57/EEC terminology. See also the above differentiation between risks and hazards.
1. Maximum allowable concentrations of harmful substances (gases, vapours, dust) in workplace air as well as noise and vibration levels must not exceed the indicators mentioned in relevant regulatory legal acts and regulatory technical documents.	<p>1) Maximum allowable concentrations of harmful substances in workplace air as well as noise and vibration levels must not exceed the indicators mentioned in relevant regulatory legal acts and regulatory technical documents.</p> <p>2) Workers must not be exposed to harmful external influences (e.g. gases, vapours, dust)</p>	The wording of Directive 92/57/EEC - Annex IV, Part A, 6(6.1) - is not only intended to cover the risks inherent in harmful substances in the air. It does allude to “harmful external factors”, which may also include “substances” disseminated in the breathable atmosphere. Therefore, the addition of the Latin abbreviations “e.g.” which stands for “ <i>exempli gratia</i> ”, meaning that dust, gases and vapours are just examples among many other external factors that may exist - for example paint particles, spray-applied concrete particles, etc. Also, the powder, or powders, technically, may not be “substances”, but may be “mixtures” - a mixture is a mixture or solution composed of two or more substances. Under EU chemicals legislation, mixtures are not considered substances

		<a href="https://echa.europa.eu/pt/support/substance-identification/what-is-not-a-substance">https://echa.europa.eu/pt/support/substance-identification/what-is-not-a-substance</a> . For all that, the wording was changed.
2. If workers .....	3).....	
3.A worker must not work alone in a high-risk confined atmosphere. The worker must be watched.....	4) A worker <b>cannot</b> not work alone in a high-risk confined atmosphere. The worker must be watched.....	Or puts the expression “in any circumstances” as it is in Directive 92/57/EEC, or it is necessary to change the verb to “cannot”; “must not” can be a verbal expression that be able to open the door to exceptions to this rule - Annex IV, Part A, 6(6.3) of Directive 92/57/EEC.
<b>7. Natural and artificial .....</b>	.....	
1.....	1).....	To renumber the subparagraphs in order to improve clarity, avoiding the attribution of the same number to the paragraph and to the subparagraph of the same Article.
2.....	2) .....	
3. Rooms, workstations and traffic routes where workers are especially exposed to risks in the event of artificial lighting must be provided with emergency lighting.	3) Rooms, workstations and traffic routes where workers are especially exposed to risks in the event of artificial lighting must be provided with emergency lighting <b>of adequate intensity</b> .	It is not enough to have security or emergency lighting; to be effective, it must have an adequate intensity. As such, the term appropriate intensity which is also in Annex IV, Part A, paragraph 8.3 of Directive 92/57/EEC, has been added.
<b>8. Doors and gates</b>	.....	
1. Sliding doors as well as doors and gates opening upwards must be installed so that to prevent them from being derailed and falling over.	1) Sliding doors as well as doors and gates opening upwards must be <b>fitted with a safety device</b> so that to prevent them from being derailed and falling over.	With regard to safety and health at work, it is not enough to write that doors and gates must be installed in such a way as to prevent them from being derailed and falling over. If so, it would be possible to admit, absurdly,

		bricks or wooden stakes that were placed to support those same doors and gates. This is not what is intended. It is intended that the doors and gates have an intrinsic safety device - a redundant system - that prevents their collapse. The expression “safety device” is in Annex IV, Part A, paragraph 9.1 of Directive 92/57/EEC and has also been added to the text.
2.....	2) .....	
3.....	3) .....	
4.....	4) .....	
<b>9. Traffic routes, danger areas</b>	.....	
1. Traffic routes, including stairs, fixed ladders and loading ramps, must be calculated, located, laid out and dimensioned so as to ensure easy passage without endangering workers employed nearby.	1) Traffic routes, including stairs, fixed ladders and loading ramps, must be calculated, located, laid out and dimensioned so as to ensure easy passage without endangering workers employed <b>in their vicinity</b> .	Adding the words “in their vicinity”, it becomes more evident that it is the workers who work in the vicinity of these traffic routes that have to be placed out of danger - in Annex IV, Part A, paragraph 10.1 of Directive 92/57/EEC.
2.....	2).....	
3.....	3).....	
4.....	4) .....	
<b>10. Loading ramps</b>	<b>10. Loading bays and ramps</b>	What is intended are not only “loading ramps”, but also “loading bays”, which are not ramps. Hence it is necessary to add “loading bays” - in Annex IV, Part A, paragraph 11 of Directive 92/57/EEC.

<p>Loading ramps must have:</p> <p>the dimensions suitable for the loads to be transported;</p> <p>at least one exit point;</p> <p>equipment to prevent workers from falling off.</p>	<p>1) Loading <b>bays and</b> ramps must have the dimensions suitable for the loads to be transported;</p> <p>2) <b>Loading bays must have</b> at least one exit point;</p> <p>3) <b>Loading ramps must be sufficiently safe</b> to prevent workers from falling off.</p>	<p>Due to the need to distinguish loading bays from loading ramps, the wording of this provision has to be amended. On the other hand, preventive measures to prevent workers from falling off loading ramps do not have to be always equipment. They may be, e.g., just guardrail intrinsic to the methodology of the construction process, such as protective masonry walls. It depends on a given situation.</p>
<p><b>11. First aid</b></p>	<p>.....</p>	
<p>1. The possibility of providing first aid to a worker by the properly trained staff at any time must be ensured.</p> <p>Measures must be taken to ensure that workers who have had an accident or have suddenly been taken ill can be transported and given necessary emergency medical treatment.</p>	<p>1) The <b>provision</b> of first aid to a worker by properly trained personnel at any time must be <b>ensured by the employer</b>.</p> <p>2) Measures must be taken to ensure that workers who have had an accident or have suddenly been taken ill can be transported and given necessary medical treatment.</p>	<p>The need to give first aid to a worker with properly trained personnel should not be a mere possibility. A possibility always presupposes its opposite, that is, the existence of non-possibility, its denial or refusal. A possibility can also presuppose the need for it to be executed or not. Therefore, the wording of the text has to move from a simple possibility to the security of happening. Additionally, the responsibility of the entity that has to ensure the proper conditions so that first aid can be administered is clearly defined: it is the employer. In this regard, Directive 92/57/EEC provides that it must be the employer who ensures that first aid is provided to the worker. The word "emergency" has also been removed from the expression "medical treatment", as the employee is entitled to medical treatment and not just emergency</p>

		medical treatment. Medical treatment obviously includes emergency medical treatment - in Annex IV, Part A, paragraph 13.1 of Directive 92/57/EEC.
2.....	3).....	
3.....	4).....	
4. First-aid equipment must be stored in the places where working conditions so require.  Places where the equipment is stored must be suitably marked and easily accessible.  The address and telephone number of the emergency service must be clearly displayed.	5) First-aid equipment must be <b>available</b> in all places where working conditions so require.  6) <b>This equipment</b> and the places where it is <b>available</b> must be suitably marked and easily accessible.  7) The address and telephone number of the emergency service must be clearly displayed.	Having first aid equipment in storage is different from having first aid equipment available. In fact, it often means the opposite: having any material stored is synonymous with that same material not being available for use. In this case, the intention is, of course, to always have first aid equipment available. Hence the verb from “stored” to “available” has been changed. This first aid equipment must also be available at all locations that are required - in Annex IV, Part A, paragraph 13.4 of Directive 92/57/EEC.
<b>12. Changing rooms and lockers</b>	.....	
1.....	1) .....	
2.Changing rooms must be sufficiently large and have facilities to enable each worker, where necessary, to dry his working clothes and footwear as well as lock away their own clothing and personal effects.	2).....	
	3) <b>If circumstances so require (e.g., dangerous substances, humidity, dirt), work clothing must be able to be stowed</b>	This requirement does not appear, clearly, in the wording of the law. Is in the same paragraph of the Directive mentioned above.

	separately from clothing and personal effects.	
3.....	4).....	
<b>13. Showers and washbasins</b>	.....	
1. Suitable showers in sufficient numbers must be provided for workers if required by the nature of the work. Provisions.....	1) Suitable showers in sufficient numbers must be provided for workers if required by the nature of the work <b>or for health reasons.</b> Provisions.....	It is necessary to add the “health reasons”. In fact, these health reasons, in this case, mean a fundamental condition for the exercise of certain activities considered unhealthy, in an environmental dimension. Unhealthy activities or operations are those that are performed above the tolerance limits provided for in the Law. They involve aggressive agents: noise, heat, radiation, pressure, cold, humidity, chemical agents, and others. It is not enough to mention the nature of the activity. The expression “health reasons” is in Annex IV, Part A, paragraph 14.2.1 of Directive 92/57/EEC.
2.....	2).....	
3.....	3).....	
<b>14. Lavatories and washbasins</b>	.....	
1.....	1).....	
2.....	2).....	
<b>15. Rest rooms and/or accommodation areas</b>	.....	
1. Where the safety or health of workers, in particular because the type of activity	1) Where the safety or health of workers, in particular because the type of activity	In addition to being in Annex IV, Part A, paragraph 15.1 of Directive 92/57/EEC, it is

carried out or the number of employees as well as the remote nature of the site so require, workers must be provided with equipped rest rooms and/or accommodation areas.	carried out or the number of employees as well as the remote nature of the site so require, workers must be provided with <b>easily accessible</b> equipped rest rooms and/or accommodation areas.	important to add that resting places and accommodation must be easily accessible. After a hard day's work at a construction site, workers must have easy access to their resting places, either because of their proximity or because there are transports available to take them safely to those same places.
2.....	2).....	
3.....	3).....	
4.....	4).....	
5.....	5).....	
<b>16. Other requirements</b>	.....	
1.....	1).....	To renumber the subparagraphs in order to improve clarity, avoiding the attribution of the same number to the paragraph and to the subparagraph of the same Article.
2.....	2).....	
3.....	3).....	
4.....	4).....	
5.....	5).....	
6.....	6).....	
	7) <b>The surroundings and the perimeter of the site must be signposted and laid out so as to be clearly visible and identifiable.</b>	It is important to have the construction site well signposted and clearly demarcate it, in order to contribute to the safety (and also the security) of the construction site workers - to

		better understand its limits and thus not interact with vehicles and people that circulate outside it -, and for the safety of pedestrians and vehicles outside that site - so that they do not enter the work area of the construction site. See Annex IV, Part A, paragraph 18.1 of Directive 92/57/EEC
<b>XIII. Minimum requirements for on-site workstations. Arrangement of indoor workstations</b>	<b>Article 15 - Minimum requirements for on-site workstations - arrangement of indoor workstations.</b>	Numbering changed
<b>1. Temperature</b>	.....	
1. The temperature in rest areas during breaks, rooms for duty staff, sanitary facilities, canteens and first-aid rooms must comply with requirements of regulatory legal acts in force.	1) The temperature in rest areas during breaks, rooms for duty staff, sanitary facilities, canteens and first-aid rooms must comply with requirements of regulatory legal acts in force.	The words “during breaks” have been deleted, as it can be interpreted, narrowly, that temperatures only have to be adequate during work breaks. For example, if a worker feels unwell and needs some rest, this break is technically not a formal work break, but a forced break for health reasons; and in this case the worker needs a room with also a proper temperature - in Annex IV, Part B, paragraph 4.1 of Directive 92/ 57/EEC.
2.....	2) .....	
<b>2.Ventilation</b>	.....	
1.....	1) .....	
2. Any substance and dust likely to create an immediate danger to the health of workers must be removed without delay.	2) Any <b>deposit</b> and <b>dirt</b> likely to create an immediate danger to the health of workers must be removed without delay.	The words used in the Directive "deposit" and "dirt" have much broader meanings than the words used in the drafting of this law, “substance” and “dust”. “Deposit” and “dirt” include “substances” and “dusts”, but they

		also encompass, e.g., mixtures which can diffuse into the atmosphere and which are neither substances nor dusts - in Annex IV, Part B, paragraph 3 of Directive 92/ 57/EEC.
<b>3. Floors, walls and ceilings rooms</b>	.....	
1.....	1) .....	
2.....	2) .....	
3.....	3).....	
<b>4. Windows and skylights</b>	.....	
1.....	1) .....	
2. Windows and skylights must fitted with devices allowing them to be cleaned without risk to the workers carrying out this work and to other workers.	2) Windows and skylights must fitted with devices or <b>designed in conjunction with equipment</b> allowing them to be cleaned without risk to the workers carrying out this work and to other workers.	In addition to being provided for in the Annex IV, Part B, paragraph 7.2 of Directive 92/ 57/EEC, integrated/ incorporated safety equipment in windows and skylights that allow for safe cleaning should not be excluded.
<b>5. Doors and gates</b>	.....	
1. The position, material and dimensions of doors and gates must be appropriate to the type and purpose of the rooms.	1) The position, number, dimensions of doors and gates, <b>and the materials used in their construction</b> , are determined by the nature and use of the rooms <b>or areas</b> .	The wording lacks to include the “number” and better specified that it is about the “materials used in the construction” of the doors and gates. Obviously, the type of use of the rooms for the selection of the constituent materials of their doors and gates, is not indifferent. The wording used in SLS Draft legal act is not as assertive as the one in the Directive. It is not enough to accept that the number of doors and gates should be the appropriate. It

		is precisely the nature of use of the rooms and areas that objectively determines the position, number, size and nature of the materials of the doors and gates. “Areas” are also added, because there may well exist gates and doors delimiting areas and not just doors and gates in simple rooms. One could perhaps accept the word “facilities” - Annex IV, Part B, paragraph 8.1 of Directive 92/ 57/EEC.
2.....	2) .....	
3.....	3).....	
4. If transparent or translucent surfaces in doors and gates are not made of safety material or if there is a risk that workers may be injured by shatters, the workers must be protected against touching such elements of doors and gates.	4) If transparent or translucent surfaces in doors and gates are not made of safety material or if there is a risk that workers may be injured by shatters, <b>the surfaces must be protected against breakage.</b>	It is not obvious the wording which prescribes that workers must be protected against touching such elements of doors and gates. It so happens that these surfaces can shatter on contact with other materials and not just with workers directly; or shatter by themselves due to poor construction or poor installation. Therefore, it is necessary, above all else, to protect these surfaces against direct impacts, against breakage, an essential condition to protect workers - Annex IV, Part B, paragraph 8.4 of Directive 92/ 57/EEC.
<b>6. Other requirements</b>	.....	
1.....	1) .....	
2. Emergency doors must open outwards.	2) Emergency doors must open outwards.  i. Emergency doors must not be so locked or fastened that they cannot be easily	To better align with Annex IV, Part B, Section I, paragraph 2 of Directive 92/ 57/EEC.

<p>Emergency doors must be so locked that any person can easily and immediately open them in an emergency.</p> <p>Sliding or revolving doors are not permitted.</p>	<p>and immediately opened by any person who may require to use them in an emergency.</p> <p>ii. Sliding or revolving doors are not permitted.</p>	
<p>3.....</p>	<p>3).....</p>	
<p>4. Where the use and equipment of rooms so requires, traffic route limits must be identified.</p>	<p>4) Where the use and equipment of rooms so requires, <b>the layout of the circulation routes must be marked.</b></p>	<p>Given the purpose of this provision, the wording changed in red is more evident than “traffic route limits”. Or else keep “traffic routes must be identified”, as stated in the Directive - Annex IV, Part B, paragraph 9 of Directive 92/ 57/EEC.</p>
<p>5.....</p>	<p>5).....</p>	
<p>6.....</p>	<p>6) .....</p>	
<p><b>XIV. Arrangement of outdoor workstations</b></p>	<p><b>Article 16 - Minimum requirements for on-site workstations - arrangement of outdoor workstations.</b></p>	<p>To maintain coherence with the wording of Article 15.</p>
<p><b>1. Stability and solidity</b></p>	<p>.....</p>	
<p>1. High-level or low-level movable or fixed workstations must be solid and stable, taking account of:</p> <p>the number of workers occupying them,</p> <p>the maximum loads they may have to bear and the weight distribution,</p> <p>the outside influences.</p> <p>If.....</p>	<p>1) High-level or low-level movable or fixed workstations must be solid and stable, taking account of:</p> <p>i) the number of workers occupying them,</p> <p>ii) the maximum loads they may have to bear and the weight distribution,</p> <p>iii) the outside influences.</p> <p>If .....</p>	

2.....	2) .....	
<b>2. Energy distribution installations</b>	.....	
1.....	1) .....	
2.....	2) .....	
3.....	3).....	
<b>3. Falling objects</b>	.....	
1.....	1) .....	
2.....	2) .....	
3.....	3).....	
<b>4. Falls from a height</b>	.....	
1. Falls from a height of more than 1.3 m must be prevented with the help of solid cradles, making worker falls impossible, with a height of at least 1.1 m to the bottom of the top element, which have a top and medium parts and an end-board or an equivalent alternative.	1) Falls from a height of more than 1.3 m must be <b>physically prevented in particular by means of solid cradles which are sufficiently high and have at least an end-board, a main handrail</b> with at height of 1,1 m from the work platform, <b>and an intermediate handrail or an equivalent alternative.</b>	The wording is not obvious and it is advisable to follow the words of the Directive to understand, technically, what is at stake and so that everyone understands the technical terms used: for example, one does not understand very well what is intended to mean by the expression " to the bottom of the top element"; on the other hand, why those heights of 1.3 m and 1.1 m? Does having a handrail "at least" 1.1 m high mean it can still be taller than that height? Is it appropriate, in terms of work safety, to have a main handrail with a higher height? It doesn't seem like it is, on the contrary. And if concrete dimensions are to be set, why not also specify the width of the end-board from the work platform? Are

		<p>all these measurements in any technical regulation of safety rules in civil construction in Ukraine? Are they common to the standard dimensions of collective protections for scaffolding for sale in commercial establishments and, supposedly, duly homologated? It should be stressed that collective protections must all have the same dimensions. For instance, in the European Union, scaffolds have specific Harmonized European Technical Standards for scaffolding which, although they do not have the force of law (and therefore are not mandatory), establish technical specifications that are considered adequate or sufficient to ensure compliance with the technical requirements established in European legislation. It was therefore appropriate to adopt these same dimensions. Despite everything, the mentioned dimensions remain in the text, but with reservations regarding what has just been exposed. Furthermore, in terms of legislative systematic, the enactment of the technical dimensions of the collective protection devices to be implemented ought to be included in a specific technical regulation of safety and health in civil construction and not in this diploma - Annex IV, Part B, paragraph 5.1 of Directive 92/57/EEC.</p>
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2.....	2) .....	With the reservations described above about the dimension's specifications.
3. If the use of such equipment or collective protection devices is not possible because of the conditions and nature of the work, suitable means must be provided to prevent access to the danger area where falls from a height are likely, or safety harnesses or other collective protection devices to prevent falls from a height must be used by workers.	3) If the use of such equipment or collective protection devices is not possible because of the conditions and nature of the work, suitable means must be provided to prevent access to the danger area where falls from a height are likely, and safety harnesses, or other collective protection devices to prevent falls from a height must be used by workers.	Personal protective equipment must ultimately be used, (i) when the means of collective protection, for technical reasons, are impractical or ineffective; (ii) and in addition - complementing - to the means of collective protection: for example, a lifting platform may be used to lift workers to perform a certain job, but that same worker must, in some circumstances, also be provided with a safety harness. Another example has to do with laying brick on the edge of a slab. In this case, there may even be a safety net at a lower level, but it is still advisable that these workers are provided with a safety harness anchored in two solid points inside the slab where the brick is being laid. Thus, the word "or" was replaced by "and" - Annex IV, Part B, paragraph 5.2. of Directive 92/ 57/EEC.
<b>5. Scaffolding and ladders</b>	.....	
1. ....	1) .....	
2.....	2) .....	
3. Scaffolding must be inspected by competent persons:  1) before .....; subsequently, .....	3) Scaffolding must be inspected by competent persons:  i. before .....; ii. subsequently, .....; i. after .....	To improve the organization of text appearance.

2) after .....		
4. Ladders must be properly maintained in working order. They must be used only with their intended purpose and in appropriate places.	4) Ladders must be <b>sufficiently strong and</b> properly maintained in working order. They must be used only with their intended purpose and in appropriate places.	The ladders also have to be strong enough, not just guaranteeing their maintenance - Annex IV, Part B, paragraph 6.4. of Directive 92/ 57/EEC.
5.....	5) .....	
<b>6. Lifting equipment</b>	.....	
1. Lifting devices, accessories, their component parts, anchorings and supports must be:	1) Lifting devices, accessories, their component parts, <b>attachments</b> , anchorings and supports must be:	The physical connection by which one thing is attached to another, or the process of physically attaching, very often it's not an anchoring - Annex IV, Part B, paragraph 7.1. of Directive 92/ 57/EEC.
1) .....	i) .....	
2) .....	ii) .....	
3) .....	iii. ....	
4) subjected to technical inspections and periodic tests in accordance with current regulatory legal acts;	iv) <b>Checked and</b> subjected to technical inspections and periodic tests in accordance with current regulatory legal acts;	Verification is also important as it is a less formal technical act than an inspection or a test, and can therefore be carried out more frequently - Annex IV, Part B, paragraph 7.1.d of Directive 92/ 57/EEC.
5) .....	v) .....	
2.....	2) .....	

3.....	3) .....	
<b>7. Means of transport, excavating machinery and transporters</b>	<b>7. Excavating and materials-handling vehicles and machinery</b>	The meaning of the title proposed for this provision modifies what is contained in the Directive. The terminologies “means of transport” and “transporters” lead directly to the transport of passengers - bus, train, aeroplane, ship, car, etc -, or the transport of large loads - such as cars - and not for operations within a construction site. On the other hand, the meaning of “material-handling” can be expressed as the loading, unloading, and movement of goods, as within a factory or warehouse, especially by the aid of mechanical devices. So, it makes a distinct difference to “transporters” or “means of transport”. The title in the Annex IV, Part B, paragraph 8 of Directive 92/57/EEC will be technically more correct. The words “transporters” and “Means of transport” have been deleted.
1. All means of transport, excavating machinery and transporters must be:	1) All excavating and materials-handling vehicles and machinery must be:	See the above rationale.
1).....	i) .....	
2) kept in working order;	ii) Kept in good working order;	It makes all the difference to ensure that a device only works, or that it works in good condition. Absurdly, a vehicle can be started and not move; or move but without brakes. “Kept in good working order” means that a stated equipment is working in all its safe

		conditions. Therefore, the word “good” should be added to working order - Annex IV, Part B, paragraph 8.1.b of Directive 92/57/EEC.
3) .....	iii) .....	
2. Drivers and operators of means of transport, excavating machinery and transporters must be specially trained.	2) Drivers and operators of excavating and materials-handling vehicles must be specially trained.	See the above rationale.
3. Appropriate preventive measures must be taken to ensure that means of transport, excavating machinery and transporters do not fall into the excavations, trenches or water.	3) Appropriate preventive measures must be taken to ensure that excavating and materials-handling vehicles and machinery do not fall into the excavations or into water.	See the above rationale.
4. Excavating machinery and transporters must be fitted with structures to protect the driver if the machine overturns, and against falling objects.	4) Excavating machinery and materials-handling machinery must be fitted with structures to protect the driver if the machine overturns, and against falling objects.	See the above rationale.
<b>8. Equipment, installations, and tools</b>	<b>8. Installations, machinery, equipment</b>	There may be some misunderstandings in the proposed title regarding the term “tools” and “machinery” and even “equipment”. The latter, according to Article 2(a) of Directive 2009/104/EC, is “any machine, apparatus, tool or installation used at work”. Therefore, the “tools” are included in the work equipment. Therefore, by placing the word “tools” in the title of the provision, all work equipment that would not be “tools” would be left out. Machines - defined in Directive 2006/42/EC - do not include "tools"

		and there are work equipment's that are not considered machines, despite the definition of work equipment encompassing all machines. So, technically, the word "machines" could even be removed from the title, keeping only the words "installations" and "equipment". However, as these definitions correspond to different Directives - one economic and other social , it is advisable to keep the name of "machinery" in the title. In general terms, the Machinery Safety Directive is oriented toward producers of machines, while the Work Equipment Directive is oriented toward operators of machines (i.e., users of machinery) - Annex IV, Part B, paragraph 9 of Directive 92/57/EEC
1. Equipment, installations and hand tools whether power-driven or not must be:	<b>1) Machinery and</b> equipment (including hand tools) and installations whether power-driven or not must be:	See the above rationale - Annex IV, Part B, paragraph 9 .1.of Directive 92/57/EEC.
1) .....	<b>i) .....</b>	
2) kept in working order;	<b>ii) Kept in good</b> working order;	Regarding the insertion of the word "good", see the justification mentioned above - Annex IV, Part B, paragraph 9.1.b of Directive 92/57/EEC.
3) .....	<b>iii) .....</b> ...	
4) operated by trained workers.	<b>iv) Operated by properly</b> trained workers.	It is not enough to have trained machine and equipment operators. Their training has to be specific to operate machinery and work

		equipment. That's why the word "properly" was added - Annex IV, Part B, paragraph 9.1.d of Directive 92/57/EEC.
2. Installations and equipment under pressure must be checked and subjected to regular technical inspections in accordance with existing regulatory legal acts on workers' safety and health.	2) Installations and equipment under pressure must be checked and subjected to regular technical inspections in accordance with existing regulatory legal.	The expression "workers' safety and health" was deleted, because this type of equipment must comply with technical standards that have to do with the technical conditions of the equipment and not with occupational health and safety legislation. Of course, they also have to comply with occupational safety and health requirements, but they also have to comply with technical laws and regulations that have nothing to do with health and safety.
<b>9. Excavations, wells, underground works, tunnels and earthworks</b>	.....	
1. Measures must be taken in an excavation, well, underground, working or tunnel:	1) <b>Prevention and protection</b> measures must be taken in an excavation, well, underground, working or tunnel:	When replacing the terms "suitable precautions" with "measures", then it must be emphasized that these are not simple measures, but rather prevention and protection measures. This is because the word "precaution" means "an action that is done to prevent something unpleasant or dangerous happening"- Annex IV, Part B, paragraph 10.1. of Directive 92/57/EEC.
1).....	i. ....	
2) to prevent risks entailed in the fall of a person, materials or objects, or flooding;	ii. To prevent <b>hazards</b> entailed in the fall of a person, materials or objects, or flooding;	In this case, the technically correct expression in terms of safety and health at work is really "hazards" and not "risks". By definition, "hazard" is different from "risk": while "hazard" is something that can cause

		harm (e.g. electricity, chemicals, working up a ladder, noise, a keyboard, a bully at work, stress, etc.), a “risk” is the chance, high or low, that any hazard will actually cause someone harm. Accordingly, the word "risks" has been replaced by "hazards" - Annex IV, Part B, paragraph 10.1.b. of Directive 92/57/EEC.
3).....	iii. ....	
4).....	iv. ....	
2.Before earthwork starts, it is necessary to identify any hazard due to underground cables and other underground communications.	2) Before earthwork starts (particularly when excavating), it is necessary to identify and reduce to a minimum any hazard due to underground cables and other underground distributions systems.	It is not obvious that the term “earthworks” encompasses excavation operations. Therefore, it must be stressed that this expression “earthworks” must include excavation work. So, within the earthworks and given its degree of danger and specificity, it is necessary to emphasize the excavation operation - therefore the emphasis on excavation in earthworks, as provided for in Directive 92/57/EEC. The terms “and reduce to a minimum” were added, because, as was also mentioned in some justifications already presented above, it is not enough to only identify occupational risks. After this identification, these risks must be evaluated and ranked. In the end, then, preventive measures have to be prescribed to eliminate or reduce - when it is not possible to eliminate them - these previously identified risks, to a

		minimum as possible. However, tackling the existing risks is not included in the proposed wording, remaining only the identification of the occupational risks. Remember that a risk assessment report that does not have the corresponding measures to eliminate or reduce them is a hollow and useless document. Finally, the expression “underground communications” was replaced by “distributions systems”, due to: (i) “underground communications” are already included in “underground cables” and (ii) the distribution systems were missing, as is the case of water supply, natural gas and sewage - Annex IV, Part B, paragraph 10.2. of Directive 92/57/EEC.
3.....	3) .....	
4. Piles of earth, materials and moving vehicles must be kept at a safe distance from excavations, trenches, etc.	4) Piles of earth, materials and moving vehicles must be kept at a safe distance from excavations, trenches, etc; <b>appropriate barriers must be built if necessary.</b>	The existing technical specification in the Directive was added - “appropriate barriers must be built if necessary” - not least because it increases the level of exigency for this provision - Annex IV, Part B, paragraph 10.4. of Directive 92/57/EEC.
<b>10. Requirements to work with metal or concrete frameworks, shutterings and prefabricated building components</b>	.....	
1.....	1) .....	
2.....	2) .....	

<p>3. Shutterings, temporary supports and buttresses must be constructed according to a design and calculated so as to withstand any stresses, and be continuously maintained in working order.</p>	<p>3) Shutterings, temporary supports and buttresses must be constructed according to a design, calculated and <b>installed</b> so as to withstand any stresses, and be continuously maintained in working order.</p>	<p>The way shutterings, temporary supports and buttresses are installed is also a fundamental condition for their resistance. For example, see the case of a poorly placed shutterings (formwork), or of temporary supports and buttresses with deficient inclinations (<i>e.g.</i>, to support a slab that has just been concreted), compared to the purpose for which they were used - Annex IV, Part B, paragraph 12.3. of Directive 92/57/EEC.</p>
<p><b>11. Cofferdams and caissons</b></p>	<p>.....</p>	
<p>1.....</p>	<p>1) .....</p>	
<p>1) .....</p>	<p>i) .....</p>	
<p>2) .....</p>	<p>ii) .....</p>	
<p>2.....</p>	<p>2) .....</p>	
<p>3.....</p>	<p>3) .....</p>	
<p><b>12. Work on roofs</b></p>	<p>.....</p>	
<p>1. Where the height or the slope exceed values set by the current regulatory legal acts on workers' safety and health, collective preventive equipment must be used to prevent workers, and tools or other objects or construction materials, from falling.</p>	<p>1) Where the height or the slope exceed values set by the current regulatory legal acts on <b>occupational</b> safety and health, collective preventive <b>measures</b> must be used to prevent workers, and tools or other objects or construction materials, from falling.</p>	<p>Relating to the removal of the word "workers'" see rationale above. The word "equipment" was replaced by the word "measures". This is because collective prevention "measures" include collective protection equipment. If only the word equipment remained, the scope of this provision was restricted. Of course, collective protection equipment is essential in this case - nets, guardrails, lifting</p>

		<p>platforms -, as well as the safety harness as an individual protection equipment that complements the adoption of those measures. However, the collective protective measures to be used may not involve any protective equipment. For example, in advance planning, there are tasks that, instead of being carried out on a roof, can be carried out on the ground. Or use extensible tools. Yes, where possible, working at height should be avoided, usually by carrying out tasks from the ground. Some practical examples include using extendable tools (an equipment...) to remove the need to climb a ladder. But other examples include the installation of cables at ground level, lowering a lighting rig to ground level or assembly of edge protection on the ground, or even the assembly of prefabricated ground covering elements - Annex IV, Part B, paragraph 14.1. of Directive 92/57/EEC.</p>
2.....	2) .....	
<p><b>13. Other requirements</b></p>	<p><b>12. Demolition work</b></p>	<p>In the draft legal act proposed by SLS, under the heading “13 - Other requirements” of the section XIV, are addressed “Demolition works” and “Atmospheric influences”. With all due respect, “Demolition works” are not “other requirements”, but rather are works with high level of occupational risks. As such, in terms of legislative systematic, they have to</p>

		<p>be highlighted. Therefore, it is proposed to create a new paragraph (“12. Demolition work”) within Article 16.</p> <p>In addition, the heading “13 - Other requirements” of the section XIV of the SLS draft legal act also include a provision on atmospheric influences. As such, and for clarity purposes, it is proposed to make the latter autonomous in another new paragraph (“13. Atmospheric influences”).</p> <p>Regarding the above, please see Annex IV, Part B, paragraphs 3 and 11 of Directive 92/57/EEC.</p>
1. <i>This provision will be transferred to another point, which will be called “13. Atmospheric influences”.</i>		
2.....	1) .....	
1) appropriate safety measures must be adopted, and necessary work done;	i) <b>The necessary work must be carried out to adopt the appropriate safety measures (with its own precautions, methods and procedures);</b>	The wording starts by not being very obvious. Then, as already mentioned, the demolition works are extremely risky, so it is not too much to structure a wording that emphasizes the implicit need for planning safety at work and not only refer to appropriate safety measures - Annex IV, Part B, paragraph 11.a. of Directive 92/57/EEC.
2).....	ii) .....	
	<b>13. Atmospheric influences</b>	

	1) Workers must be protected against atmospheric influences which could affect their safety and health.	See justification above - Annex IV, Part B, paragraph 3 of Directive 92/57/EEC.
	<b>Article 17</b> - Legal competence to promote, control and enforce compliance with this resolution	
	1. Measures concerning the promotion, control and enforcement of compliance with these Minimum Safety and Health Requirements at Temporary or Mobile Construction Sites shall be implemented by the “Central executive authority that implements the state policy on state supervision (control) of compliance with the labour legislation”.	As mentioned above, for the substantive application of this law and, naturally, for its effectiveness, it will be necessary to clearly define the framework of sanctions to be applied and the entities to be held responsible for the infringement of each of its provisions. At the same time, it is also essential to define which public authority is responsible for monitoring compliance with the law through the application of sanctions.
<b>Annex 1</b>	<i>Changed place (as paragraphs 1 and 2 of proposed new “Article 2 - Scope”).</i>	It is suggested that this annex be transferred to the body of the law, as “Article 2 - Scope”. The rationale is in this "Article 2 - Scope".
<b>Annex 2</b> - to the Minimum worker’s safety and health Requirements for Temporary Mobile Construction Sites (Section II (3)) - <b>Prior notice of building works.</b>	<b>Annex I</b> - to the Minimum <b>Occupational Safety and Health</b> Requirements for Temporary Mobile Construction Sites (paragraph 5 of Article 4) - <b>Prior notice of building works.</b>	Concerning the deletion of the word “worker’s”, the rationale is already mentioned above.
Numbers 1 to 5	.....	
6.Coordinator(s) for the worker’s safety and health matters at the project design documentation development stage (full	6. Coordinator(s) for <b>safety and health at</b> project stage (full name(s), actual and legal address, contact telephone number)	Concerning the deletion of the word “worker’s”, the rationale is already mentioned above.

name(s), actual and legal address, contact tel. number)		
7.Coordinator(s) for worker’s safety and health matters at the construction stage (full name(s), actual and legal address, contact tel. number)	7. Coordinator(s) for <b>safety and health at</b> construction stage (full name(s), actual and legal address, contact telephone number)	Concerning the deletion of the word “worker’s”, the rationale is already mentioned above.
Numbers 8 to 12	.....	
<b>Annex 3</b> to the Minimum worker’s safety and health Requirements for Temporary or Mobile Construction Sites (Section IV(3)) - <b>LIST of building works involving particular risks to life and safety of workers</b>	<b>Annex II</b> - to the Minimum <b>Safety and Health</b> Requirements <b>at</b> Temporary or Mobile Construction Sites - <b>List of Building Works with particular Risks to life and safety of workers (paragraphs 1, 7 and 8 of Article 7).</b>	Concerning the deletion of the word “worker’s”, the rationale is already mentioned above. Also to update the Articles/paragraphs that refer to this List (now renumbered as Annex II).
1.....	.....	
2.....	.....	
3.Work with ionizing radiation risk, particularly those governed by regulatory legal acts.	3. Work with ionizing radiation risk, particularly those governed by regulatory legal acts <b>such as those that imply the mandatory designation of controlled or supervised areas.</b>	Just to underline and specify the importance of what may be at stake here - Annex II (3) of Directive 92/57/EEC.
4.....	.....	
5.....	.....	
6.....	.....	

7. Work using compressed-air bottles for air supply to each worker.	7. Work carried out by divers having a system of air supply.	What the Directive wants to prescribe here is, specifically, diving work - Annex II (7) of Directive 92/57/EEC.
8.....	.....	
9.....	.....	
10. Work involving the assembly or dismantling of building structures, building elements or equipment, carried out with the use of lifting machines, hoists, etc.	10. Work involving the assembly or dismantling of building structures, building elements (like prefabricated components) or equipment.	Are prefabricated components “building elements”? When in doubt, following the intention of the Directive, it should be assured that they are included in this provision. Also conceive that there are assembly or disassembly work without using “lifting machines” and “hoists” - manual work. If the expression “carried out with the use of lifting machines, hoists, etc” is written in this provision, these “manual works” would no longer be considered as special risk works. Therefore, it is better to remove the allusion to machines and hoists. Thus, their exclusion from the wording does not exclude their inclusion in special risks -Annex II (10) of Directive 92/57/EEC.

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