



International  
Labour  
Organization

Project is implemented by  
International Labour Organization

EU-ILO Project

“Towards safe, healthy and declared work in Ukraine”



MOVING FORWARD  
**TOGETHER**

Project is funded by European Union

## Civil Society Platform (AA) meeting

Problems of adaptation of Ukrainian legislation on OSH to EU acquis

António J. Robalo Santos  
EU-ILO Project Manager

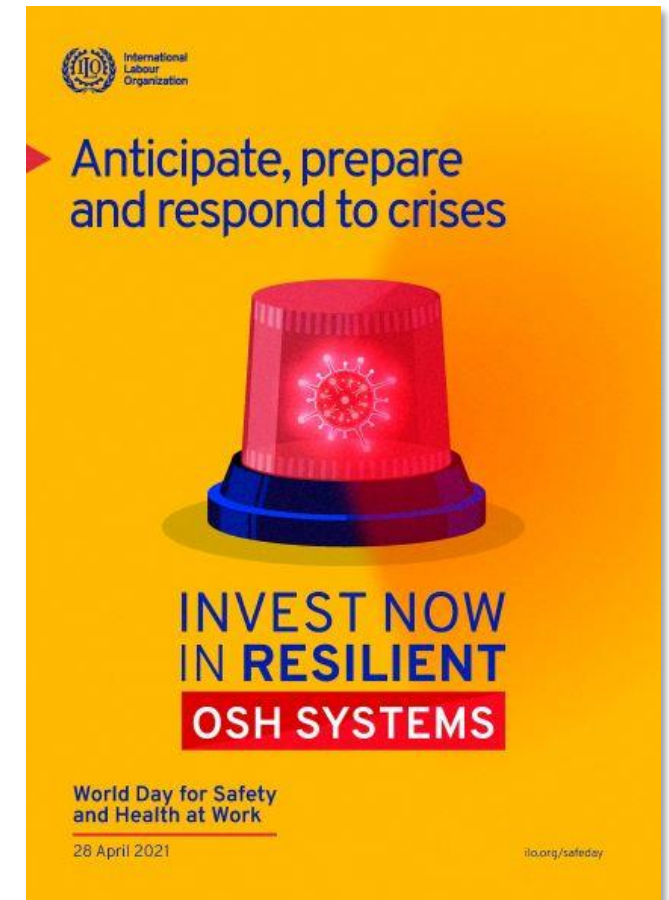
[www.ilo.org.shd4Ukraine](http://www.ilo.org.shd4Ukraine)

<https://www.facebook.com/shd4Ukraine>

Tuesday / 29 / June / 2021

## ▶ Contents

- ▶ **Main** challenges
- ▶ **Technical** challenges
- ▶ **Methodological** challenges



## ▶ Main challenges

- ▶ **Low priority** afforded to **OSH**, in spite of having incidence rates of fatal work related accidents substantially higher than in EU (at least until COVID-19 outbreak)
- ▶ **Lack of political will** to change (of the Parliament, Government, trade unions and employers' organizations)
- ▶ Ukrainian prevalence of a **“soviet-like” culture**, based on some shared **contraproductive prejudices**:
  - Occupational **risks are inevitable and unavoidable** – which leads to a reactive approach, based on correction, compensation and protection (rather than on prevention of occupational risks)
  - The idea that **Ukraine is so special and particular, with so many “peculiarities”**, that its legislation cannot be harmonized with EU - which is commonly used as an excuse not to properly align with EU Acquis (forgetting, that EU acquis applies to 28 very different countries)
  - The **idea** that public **authorities are corrupted, just want to impose fines and prevent businesses from growing** – which leads to ultraliberal approaches and to the limitation of powers and activities of labour inspection

## ▶ Technical challenges

- ▶ **Too prescriptive** legislative approach: focused on detailing **processes** (rather on defining the **results** to be achieved), which leads to disclaimer of employers' responsibilities, excessive number of outdated and contradictory pieces of legislation and, therefore, lack of understanding, enforcement and compliance with legislation
- ▶ **Insufficient knowledge and understanding of ILS and EU Acquis** on OSH and their advantages for workers, employers, the State and the society in general (which also reinforces the lack of political will to change)
- ▶ **Disrespect** for **Article 9(1) of the Constitution of Ukraine**, not considering part of national legislation the provisions of ILO Conventions ratified by Ukraine (e.g., C81, C129, C155)
- ▶ **Poor legislative technique** used (which makes it impossible to understand legal provisions): absence of paragraph's numbering; repetition of the same provisions in several legal acts; inconsistency of the terminology used within and accross legal acts; contradictory provisions in different legal acts; etc.

## ▶ Methodological challenges

- ▶ The **alignment** of the national legal framework on OSH with ILS and EU Acquis **started with the wrong foot**:
  - ▶ It **started with** the alignment of **OSH individual Directives** (minimum OSH requirements for the use of PPE's, for the use of work equipment, and for temporary or mobile construction sites, etc.), instead of starting with the alignment with the transposition of the EU OSH Framework (MOTHER or UMBRELLA) Directive 89/391/EEC
  - ▶ The alignment was **made through MSP Orders (instead of CMU Resolutions or VRU Laws)**, which led to their non effective application (due to the lack of legal power to rule out contrary provisions of other legal acts with higher legal power) and sustainability (as they can be more easily amended or revoked)
- ▶ Legal act's drafting **experts act more as political decision makers than as technical experts**: they make themselves political decisions on whether to align provisions of draft legal acts with ILS and EU Acquis (on the basis of what they think Government wants), instead of providing politicians with aligned draft legal acts and leave to them the political decision on whether to align (or not) with those standards

## ▶ Methodological challenges

- ▶ The **terminology** commonly used in Ukraine, as regards OSH, **has also be properly aligned** with the ILS and EU Acquis, ensuring that the terms used have the same meaning as the ones used in those standards and across and between national legal acts
- ▶ Within the draft legal acts adoption process it is of paramount importance to **reinforce social dialogue**, including through the **formal consultation of the NTSEC**

## ► Learn more about the EU-ILO Project...



[www.ilo.org/shd4Ukraine](http://www.ilo.org/shd4Ukraine)



<https://www.facebook.com/shd4Ukraine>



[Issue #2 \(December 2020\)](#)



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

## Q&A





## ▶ **Contacts**

**Дякую за увагу!**

**Thank you for your attention!**





International  
Labour  
Organization

Project is implemented by  
International Labour Organization



Project is funded by European Union

EU-ILO Project

“Towards safe, healthy and declared work in Ukraine”

## Civil Society Platform (AA) meeting

Problems of adaptation of Ukrainian legislation on OSH to EU acquis

[www.ilo.org.shd4Ukraine](http://www.ilo.org.shd4Ukraine)

<https://www.facebook.com/shd4Ukraine>