EU DIRECTIVES AND REFORM OF OSH AND LABOUR RELATIONS’ LEGISLATION

“WHITE PAPER” OVERVIEW

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SUMMARY

▪ Reform OSH Ukrainian legal framework
  ▪ Shift from prescriptive to goal oriented vision
  ▪ Labour relation issues
▪ Developments required
  ▪ Features, options
▪ Enforcement and promotion
▪ Road map
  ▪ Strategic, legislative, operational measures
PREVENTIVE MODELS

Actual

Traditional

Holistic

Goal oriented

Process rules

Risk to risk

Prescriptive rules
# PRESCRIPTIVE MODEL

<table>
<thead>
<tr>
<th>ADVANTAGES</th>
<th>DISADVANTAGES</th>
</tr>
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<tbody>
<tr>
<td>Identifies problems and provides solutions</td>
<td>Volume and accessibility to recipients of the law</td>
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<tr>
<td></td>
<td>Some economic activities</td>
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<tr>
<td>Technical specifications</td>
<td>Some specific risks</td>
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<td></td>
<td>Only material characteristics</td>
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<td>Potential obsolescence</td>
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<tr>
<td>Determinable obligations</td>
<td>Mainly physical integrity</td>
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<td></td>
<td>Discourages innovation</td>
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<td>Ease of compliance and enforce</td>
<td>Rigidity of the legal framework</td>
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# GOAL ORIENTED MODEL

<table>
<thead>
<tr>
<th>ADVANTAGES</th>
<th>DISADVANTAGES</th>
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</thead>
<tbody>
<tr>
<td>Systemic vision and self regulation</td>
<td>It involves strong commitment at the various decision-making levels</td>
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<tr>
<td>Structure of legislation: main and secondary</td>
<td>Consistency needs...</td>
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<tr>
<td>Other normative orders, the <em>soft law</em></td>
<td>Binomial certainty/uncertainty</td>
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<td>Process and performance standards</td>
<td>Requires availability of skills</td>
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<td>All risks, economic activities, employed population</td>
<td>Difficulty for micro-, small and medium businesses</td>
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<td>Adaptability to reality and change</td>
<td>More complexity in compliance and enforcement</td>
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SYSTEMIC STRUCTURED VISION

CONTEXTS:
- POLITICAL
- INSTITUTIONAL

Workers representatives
OSH professionals
Designated workers
Employer/company
LABOUR RELATION ISSUES:
A CONTEXT OF CITIZENSHIP AT WORK

- Employment relationship
- The nature of nowadays work
- Undeclared work
- Masked work
- Atypical work
- Information and consultation to employees
- Equality between men and women: gender and genetic
- Anti discrimination
OSH LEGAL FRAMEWORK: MAIN FEATURES TO BE OBSERVED

- Scope and objectives
  - All work activities, employees, third parties
  - The physical and mental health

- Employers obligation prevention
  - Obligation of result, prospective
  - Decision-making ruled by principles, the 9 GPP
  - Participatory management system, strategic approach
  - Not transferable
  - Not conditioned by economic factors

- Resources, the OSH preventive services, health surveillance
OSH LEGAL FRAMEWORK: MAIN FEATURES TO DEVELOP

- Preventive and protective services
  - Internal/external resources
  - Emergency and rescue

- OSH professionals
  - Safety engineers, occupational health physicians
  - Ergonomists, occupational health psychologists, industrial hygienists

- Employees participation on OSH
  - The workers representatives
PREVENTIVE E PROTECTIVE SERVICES OPTIONS

- Option internal/external service provider: standardization of choice or not
- Type and nature of skills: Specialists, generalists, multidisciplinary: health, safety, psychosocial
- Certification of external services provider
- Relation with workers representatives
- Aptitude, personal, means
- The case of small companies
- Regulation process: hard law, soft law, codes of practice
OSH PROFESSIONALS: OPTIONS

- Regulated profession: the access is legally limited to the possession of a specific professional qualification
- Chartered profession: formal credential by a relevant professional organization
- Indication of qualified professional
- The case of health professionals

- Definition of profile of skills
- Ethics and deontology
- Relation with companies and employees
- Independence of professionals
- Protection and conditions of exercise
- Regulation process: hard law, soft law, codes of practice
WORKERS REPRESENTATIVES: OPTIONS

▪ Who are them
  1) Business councils or similar already existents
  2) Delegates and safety committees that may cumulate with the previous option
  3) Specific elected delegates and safety committees
  4) No reference in the law

▪ Protection and conditions of exercise
  ▪ Electoral process
  ▪ Relation with management and OSH professional
  ▪ Training
  ▪ Methodologies: access to information inspection’s on the work place...
  ▪ Credit of hours
  ▪ Resources
  ▪ Relation with authorities
  ▪ Protection against discrimination
LABOUR INSPECTION SYSTEM

Compliance with ILO Conventions 81 and 128

- Main functions / accessories functions
- Organizational structure
  - Central authority and proximity to regions
  - Independence to the interests
  - Social partners and other stakeholders
- Labour inspection procedure
- Powers and deontology
- Career and statute of inspection professionals
ROAD MAP: STRATEGIC MEASURES

- Ukrainian National Strategy for the Promotion of OSH
- Legislative intervention program
- Panel of relevant indicators on working conditions
- Strengthen the labour administration, Improve labour inspection action
ROAD MAP: LEGISLATIVE MEASURES

- Transpose directives to national law instrument
- Create an OSH guidelines system
- Additional regulations and/or OSH guidelines on OSH professional qualifications, OSH preventive services, OSH workers representative
- Strengthen and improve the efficiency and effectiveness of the labour inspection system
ROAD MAP: OPERATIONAL MEASURES

▪ Training on the forth-coming national OSH legal framework
▪ Information and awareness-raising campaign on the EU legislation
▪ Disseminate technical information
▪ Reorient the system for collecting, processing and disseminating data on work accidents and occupational diseases
RISKS TO AVOID

- Lack of legislative authorities involvement
- Miss a participatory and goal-oriented OSH approach
- Rigidity of the legal framework and legal solutions
- Less consideration by micro, small and medium enterprises
- Prejudice to public confidence and to compliance
- Demotivation and lack of qualifications
- Lack of knowledge about occupational diseases and accident situation
- Social costs...
• The “Association Agreement between EU and Ukraine” is a confluence of economic imperatives consistent with social policies.
• There is an intention to obtain sustainability and capacity to project the future.
• The promotion of OSH plays an important role in these goals.