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EU-ILO Project
"Towards safe, healthy and declared work in Ukraine"

Draft Law
"On Occupational Safety and Health of Workers"
of the Ministry of Development of Economy, Trade and Agriculture

Summary of the 3rd set of recommendations on its better alignment with International and European Labour Standards and best practices

February, 2021

Executive summary

These third set of technical advices and recommendations to the draft Law "On Occupational Safety and Health of Workers" developed by the Ministry of Development of Economy, Trade and Agriculture (ME) are provided within the scope of the EU-ILO Project "Towards safe, healthy and declared work in Ukraine", under activities 1.1.1, 1.1.2 (of Output 1.1) and 1.2.1 (of Output 1.2).

They follow a first set of recommendations provided by the EU-ILO project in October 2020 and a second set provided in November 2020.

The present recommendations are made to the third version of the draft law, incorporating the results of the discussions on the second version which consolidated the agreed inputs collected during the work group 7-days retreat in Chernihiv.

These technical recommendations are intended to promote a further alignment of the draft Law with the main International[1] and the European[2] labour standards and best practices on Occupational Safety and Health (OSH) and, subsidiarily, on Labour Inspection[3], as this draft law foresees amendments to the labour inspection legal framework.

They should not be seen as official comments of the ILO or as a replacement of the positions of the supervisory bodies of the ILO.

Its content, moreover, does not reflect the official opinion of the European Union. Responsibility for the information and views expressed therein lies entirely with the author.

Looking at the drafting process and analyzing the provisions foreseen in this third draft, in light of the applicable International and European Labour Standards and best practices, it is possible to identify some positive aspects and some remaining gaps and challenges which need to be further addressed and improved, in order to better align with the International Labor Standards (ILS) and EU Acquis:

[1] Namely, with the following International Labor Standards: Occupational Safety and Health Convention, 1981 (No. 155); Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155); Occupational Health Services Convention, 1985 (No. 161); Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and Night Work Convention, 1990 (No. 171).

[2] In particular, with the following European Union Directives: Council Directive 89/391/EEC, of 12 June 1989, concerning the introduction of measures to encourage improvements in the safety and health of workers at work; Directive 2003/88/EC, of the European Parliament and of the Council, of 4 November 2003, concerning certain aspects of the organization of working time; 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; Council Directive 89/656/EEC, of 30 November 1989, on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace; Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace; Council Directive 92/85/EEC, of 19 October 1992, on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding; Council Directive No. 94/33/EC, of 22 June 1994, on the protection of young people at work, as amended by Directive No. 2007/30/EC, of 20 June 2007, of the European Parliament and of the Council; and Council Directive No. 91/383/EEC, of 25 June 1991, supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship.

[3] In particular, concerning Labour Inspection Convention, 1947 (No. 81) and Labour Inspection (Agriculture) Convention, 1969 (No. 129).

A. Main positive aspects:

1. Active participation of social partners and other relevant entities on the drafting process, within the comprehensive work group set up by the ME (composed of representatives of ME, parliament, trade unions, employers' organizations, Ministry of Health, State Labor Service of Ukraine, Occupational Medicine Institute and expert organizations);
2. Definition of a National Policy for OSH, paving the way for the futur ratification of ILO Convention 187;
3. Holistic approach to OSH that includes both safety + health aspects of the work (and not just safety)
4. Shift from an approach based on protection, correction and compensation to an approach focused on prevention and foreseeing the general principles of prevention (GPP) and the employers' obligation to assess and control occupational risks;
5. The specification of the main employers' obligations on OSH:
    a. Organization and functioning of preventive and protective services of OSH;
    b. Management of occupational risks;
    c. Ensure the consultation and participation of workers;
    d. Ensure the workers' health surveillance;
    e. Provision of training on OSH to workers;
    f. Provision of information on OSH to workers;
    g. Planning and organization for first-aid, fire-fighting and evacuation of workers;
    h. Provision of collective and personal protective equipment;
6. The special protection of the safety and health of special vulnerable groups of workers:
    a. Pregnant workers, workers who have recently given birth, or who are breastfeeding
    b. Workers under 18 years of age
    c. Workers with disabilities
7. The consideration of the aspects of promotion and enforcement of the legal provisions, in order to ensure their application:
    a. Labor inspection powers and activities
    b. Employer's liability for non-compliance

B. Main aspects to improve:

1. Some terms foreseen in Article 1 need to be better defined and aligned with ILS (workplace/workstation, occupational accident/disease, night work, etc.) and articulated ("expert organizations" versus "authorized entities for safety and health of workers" and "authorized worker for safety and health of workers").
2. Reintroduce the article (Article 4) on defining the national system for OSH, in order to ensure the coordination of the entities responsible for implementing the national OSH policy, paving the way for the ratification of the ILO C187.
3. Ensure that the necessary by-laws to regulate some aspects of this law will be available on time to allow the implementation of the law once the law enters into force (e.g. lists of high-risk works; high-risk work equipment; risk factors to genetic heritage, to pregnant workers, their unborn child, workers who have recently given birth, or who are breastfeeding, and to minors; etc.).
4. Regarding the authorization for the performance of high-risk works (Art. 11), the need to ensure that:
    a. The prior authorization for performance of high-risk works cannot be substituted by an additional life and health insurance of the workers;
    b. Even when the employer is authorized to perform high-risk works, he still has to take all the necessary and adequate measures, as foreseen in the law, to minimize as far as practically possible the occupational risks and their impact on the safety and health of the workers.
    c. The authorization for performance of high-risk works should be refused if the applicant was convicted of violating OSH regulations regarding the performance of high risk works within the previous 2 years, had fatal or serious occupational accidents performing high-risk works within the previous 2 years or if labour inspectors verify that employer is not able to ensure the safety and health of the workers performing such works;
    d. The authorization for performance of high-risk works should be revoked if the applicant is convicted of violating OSH regulations regarding the performance of high risk works, had fatal or serious occupational accidents performing high-risk works or if labour inspectors verify that employer is not ensuring the safety and health of the workers performing such works.
5. As for the organization and functioning of the safety and health of workers system (Article 15):
    a. In order to better better align this article with EU Directive 89/391/EEC, the requirements and modalities of OSH services (external or internal) should be defined <u>by workplace</u> (and not globally for the employer) depending on the

number of workers of each workplace and the nature of the occupational risks to which they are, or may be, exposed at each workplace;

b. Main functions of the safety and health of workers system that must be ensured by the employer should be revised to better align with ILS and EU acquis.

6. As for workers' health surveillance and health examinations (Article 19), it should be foreseen:

    a. The obligation of the employer to ensure the surveillance of the occupational health of all workers and not just some of them (although with different periodicities), as the health surveillance in not just aimed at assessing the repercussions of the work and the conditions in which it is performed in the health of the workers but also to preventively assess, from the outset, the fitness of the worker for the job and work requirements.

    b. That the workers have to be informed by the employer about the results of the health examination and should sign the fitness certificate.

    c. That the workers' medical information should be kept confidential and protected by professional secrecy. Employer should only have access to the information on whether the worker is feet for the job or under what conditions.

7. Regarding provision of information on OSH to workers (Article 21), it is necessary to clarify that, although the frequency of providing information to workers is defined by the employer, the employer is required to take into account that the information regarding the risks to which the workers are or may be exposed to at the workplaces in general and at their workstations in particular and about the preventive and protective measures to be taken have to be provided before the beginning of the work and updated as soon as changing circumstances do so advise.

8. Concerning first aid, elimination of breakdowns, fire-fighting, and evacuation of workers (Art. 22), it necessary to provide that:

    a. the number, training and means provided to the responsible workers should take account on the size and risks of the workplaces (and not of the enterprise's production facilities);

    b. the information to be provided on the risks involved and of the steps taken or to be taken as regards protection (that must be given to all workers who are, or may be, exposed to serious and imminent danger), foreseen in Article 8(3)(a) of the Directive 89/391/EEC, should be provided as soon as possible and, in any case, before the occurrence of any real emergency situation.

9. Regarding employers' obligations, it is necessary to provide that:

    a. Employers shall have the obligation to ensure the safety and health of workers in every aspect related to the work, in order to align with one of the most important aspects of the EU Directive 89/391/EEC, foreseen in Article 5(1) of the Directive;

b. Employers shall be required to implement the necessary measures for the safety and health protection of workers in accordance with the general principles of prevention, laid down in the Article 14(1) of this draft law, and to adjust the measures to take account of changing circumstances, in order to align with Articles 6(1) and 6(2) of Directive 89/391/EEC;

c. Employers shall be required to organize and ensure the functioning of the occupational safety and health of workers system, designating the authorized internal structural units for the safety and health of workers, authorized workers for the safety and health of workers or, where appropriate, expert entities on safety and health of workers, pursuant to Articles 14 and 15, in order to align with Articles 7(1) and 7(3) of Directive 89/391/EEC.

10. Concerning workers' obligations (Art. 27), it should be specified, regarding sub-paragraph 8), that the mentioned obligation , is within workers' field of activity, in order to better align with Article 13(2)(f) of Directive 89/391/EEC.

11. The functions of the central executive authority that implements the state policy on state control of compliance with the labour legislation, as laid down on paragraph 2 of Article 31 should be revised, in order to better align with ILO Conventions C081 and C129, on Labor inspection.

12. As for the public information in the field of safety and health of workers (Art. 34), the content of the information to be reported needs to be revised, in order to better align the proposed provisions with Article 21 of ILO C081.

13. As for the employer's liability for violation of the legislation on safety and health of workers (Art. 35):

    a. The provision that states that "The fines mentioned in this paragraph shall be imposed in case of failure to comply with the labour inspector's order concerning elimination of such violations drawn up on the basis of the inspection visit findings" should be deleted because:

        i. It takes out from the labour inspection activity and from the infringement proceedings the effect of general prevention, i.e., the fact that the subjects of legal provisions tend to comply with them in order to avoid being sanctioned. This legal provision is likely to disincentive employers to comply with OSH legislation from the outset, because they know that if their infractions are detected, they will always have the opportunity to correct them without being sanctioned. In fact, instead of complying with the legal provisions, they will be waiting for the labour inspectors to detect them and, if and when they do detect them, they will have the time to correct the infringements without any penalization.

        ii. This provision contradicts:

            - Article 17(2) of ILO Convention 81 and Article 22(2) of ILO Convention 129, according to which "It shall be left to the discretion

of labour inspectors to give warning and advice instead of instituting or recommending proceedings";

- 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";
- 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"; and
- Article 4(2) of EU Directive 89/391/EEC, according to which the states "shall ensure adequate controls and supervision".

b. The infringements that are foreseen on this residual provision should be kept to a minimum! The different violations and corresponding sanctions should be, as much as possible, specified in specific legal provisions and not grouped in a residual provision. As such, the employer's liability for violation of the legislation on safety and health of workers, in addition to the ones already prescribed, should specially foresee specific and individualized infringements and corresponding sanctions for the violation of some very important legal provisions concerning, *inter alia:*

   i. Then protection of genetic heritage (Article 13);

   ii. The employers' obligations to assess the occupational risks to which the workers are or may be exposed at work and to implement the preventive and protective measures on the basis of the risk assessment and following the general principles of prevention (Article 16 - Occupational risk management and 25 - Employers' obligations);

   iii. Safety and health of pregnant workers, workers who have recently given birth, and workers who are breastfeeding (Article 28);

   iv. Safety and health of workers under 18 years of age (Article 29);

   v. Safety and health of workers with disabilities (Article 30).

c. The amount of “half a minimum wage” established in the proposed Art. 35(4)(16) as the fine to be applied to all other violations not specifically provided in Article 35 is inconsistent with the amount of “a minimum wage” foreseen in the equivalent residual provision proposed as sub-paragraph 8) of the second part of Article 268 of the Code of Labor Laws of Ukraine, for “the violation of requirements of the labour legislation other than those provided by paragraphs 1-7 of this part”;

d. The amount of fines should also be based on the size of the employer, in terms of number of employees or revenues (or annual budget, in case of a public organization);

e. It should also be introduced non-monetary accessory sanctions, more directed to the vital interests of the employers;

f. The amount of fine should also include the financial gain of the employer with the commitment of the infraction, in order to dissuade non-compliance;

g. In conclusion: the sanctions for non-compliance with the provisions of this draft law on OSH should be further reviewed, in order to ensure that "The enforcement system shall provide for adequate penalties for violations of the laws and regulations", as foreseen in Article 9(2) of ILO C155.

14. As for expert organizations (Articles 37-46):

a. In order to avoid duplications of functions of “expert organizations” and “authorized entities for safety and health of workers” and benefit from synergies, expert organizations should be able, to provide a wider scope of services (depending on their certificate of appointment) which should include not only (part or all) of the ones already foreseen, but also (part or all) of the OSH services that the employers have to ensure to their workers (foreseen in Article 15) if they are competent, have the necessary means and meet the necessary requirement.

b. The term “Expert organizations” should be changed to “expert entities on safety and health of workers” in order to allow that natural persons which are competent, have the necessary means and meet the necessary requirements may apply and be appointed as expert entities for safety and health of workers;

c. The “SECTION VIII. EXPERT ORGANIZATIONS” (Articles 37-46) should be regulated through a by-law (CMU Decree or ME Order) and not in a draft law on OSH.

15. Concerning Section IX. FINAL PROVISIONS, in particular in what relates to the proposed amendments to Articles 259 to 271 of the Code of Labour Laws:

a. Regarding State supervision (control) of compliance with the labour legislation (Article 259):

i. To ensure consistency with Article 260 and to better align with International Labor Standards [in particular, with ILO C081 - Art. 3(1); and C129 -Art. 6(1)] and best practices, State supervision and control of compliance with labour legislation should also include, besides inspection visits and desk inspections, the provision of technical information and advice to employers and workers, conducting information and awareness-raising campaigns and notifying the competent authority of defects or abuses not specifically covered by existing legal provisions.

ii. Should foresee that the provisions of this law regarding labour inspection and labour inspectors should also apply, mutatis mutandis, to the exercise of labour inspection functions by local governments and to their labour inspectors, in order to ensure that the exercise of the functions of labour inspection by the local governments is also aligned with ILO C081 and C129

and to promote the consistency on the application of labour legislation across the entire territory of Ukraine.

b. Concerning the State Labor Inspection (Art. 260), it should be changed, in order to better specify, complement and describe the activities of labour inspection, their frequency and scope, along with the criteria to ascertain the adequate number of labour inspectors, in order to better align it with a number of articles of ILO C081 and C129.

c. The proposed legal provision regarding the powers of state labour inspectors (Article 261), main obligations of state labour inspectors (Article 262) and independence and means of state labour inspectors (Article 263), require further revision, in order to better align them with relevant provisions of ILO Conventions C081 and C129.

d. As for Article 263^1, concerning the labour remuneration of state labour inspectors, and although recognizing the extreme importance of properly regulating this aspect, it should be deleted, as the provisions regarding labour inspectors' remuneration, recruitment, training, career path, etc., should be regulated in a specific law on labour inspection, and not on the Code of Labour Laws.

e. Regarding recruitment and training of labour inspectors, it is proposed to insert Article 263^1, to establish the general requirements (to be further regulated by law) in order to better align with International Labour Standards (Article 7 of ILO C081 and Article 9 of ILO C129) and best practices.

f. Regarding the liability of state labour inspectors (Article 263), it is proposed to delete this article. In fact, taking into account the specificities of the functions of the labour inspectors as public servants and their responsibilities, their liability for compensations should be regulated either in a specific law regulating the labour inspection statute (including remuneration, recruitment, training, career path, etc.) or within a specific law on liability of public servents. In that occasion, it should also be advisable to consider the regulation of an insurance scheme to which labour inspectors could transfer their responsibility regarding compensation claims to an insurance company. In any case, it should not be regulated within the Code of Labour Laws, which should regulate the relations between employers and workers.

g. As for the rights of the inspected entities (Article 264), they have to be revised:

    i. The right to receive a referral of the inspection should be changed to take into account situations where the inspection is carried out without prior notice, in particular by initiative of a labour inspector immediately following a complaint or its own observation and that requires urgent action, and there is no time to register the inspection; and

    ii. The right not to provide documents already provided, where the documents previously provided are no longer up to date.

h. The articles regarding the grounds for carrying out inspection visits or desk inspections (Article 265) and procedure for carrying out inspection visits or desk inspections (Article 266) should be revised, as they contain provisions that are contradictory to ILO C081 and C129, restricting the free initiative of labour inspectors to carry out inspections visits at hour of day or night without prior notice (through the imposition of grounds for inspections visits and desk inspections and requiring their pre-registration and presentation of the respective referral) and limiting the possibility of the workplaces being inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions (through the pre-limitation of the scope of the inspection visits and desk inspections o their registration and through the imposition of time-limits on the duration of the inspection visits and desk inspections)

i. As for Article 267, on the documents based on outcomes of an inspection visit and desk inspection, it is important to ensure that:

    i. Employers' reservations, complaints, or resources to the court regarding their notification to take safety and health preventive and protective measures within a reasonable time limit and/or to immediate stop works, in order to secure the safety and health of workers, pursuant to sub-paragraphs 1) and 2) of paragraph 2 of Article 32 of the Law of Ukraine "on occupational safety and health of workers", doesn't have suspensive effect, in order to secure their effectiveness.

    ii. It should be for the labour inspector to decide to take measures for holding liable the employer for the violations described in the mentioned report and/or in the order, irrespective of whether the violations detected were eliminated or not.

j. Concerning the liability for violations of the labour legislation (Article 268), the recommendations are very similar to the ones expended regarding Article 35 of the law "on occupational safety and health of workers", and include:

    i. The provision that states that " If the visited entity complied with the order and eliminated the detected violations provided for in paragraphs 3-5, 8 of the second part of this Article within the time limits prescribed in the order, no measures for holding liable shall be applied." should be deleted because:

        - It takes out from the labour inspection activity and from the infringement proceedings the effect of general prevention, i.e., the fact that the subjects of legal provisions tend to comply with them in order to avoid being sanctioned. This legal provision is likely to disincentive employers to comply with OSH legislation from the outset, because they know that if their infractions are detected, they will always have the opportunity to correct them without being sanctioned. In fact, instead of complying with the legal

provisions, they will be waiting for the labour inspectors to detect them and, if and when they do detect them, they will have the time to correct the infringements without any penalization.

- This provision contradicts:
  - Article 17(2) of ILO Convention 81 and Article 22(2) of ILO Convention 129, according to which "It shall be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending proceedings";
  - 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";
  - 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"; and
  - Article 4(2) of EU Directive 89/391/EEC, according to which the states "shall ensure adequate controls and supervision".

ii. The infringements that are foreseen in the residual provision proposed as sub-paragraph 8) of the second part of Article 268 of the Code of Labor Laws of Ukraine, for “the violation of requirements of the labour legislation other than those provided by paragraphs 1-7 of this part” should be kept to a minimum! The different violations and corresponding sanctions should be, as much as possible, specified in specific legal provisions and not grouped in a residual provision. As such, the employer's liability should specially foresee specific and individualized sanctions for the most serious infringements

iii. The amount of “a minimum wage” foreseen in the proposed residual provision sub-paragraph 8) of the second part of Article 268 of the Code of Labor Laws of Ukraine for “the violation of requirements of the labour legislation other than those provided by paragraphs 1-7 of this part” is inconsistent with the amount of “half a minimum wage” established in the proposed Art. 35(4)(16) of the law “on occupational safety and health of workers” as the fine to be applied to all other violations not specifically provided in Article 35;

iv. The amount of fines should also be based on the size of the employer, in terms of number of employees or revenues (or annual budget, in case of a public organization);

v. It should also be introduced non-monetary accessory sanctions, more directed to the vital interests of the employers;

vi. The amount of fine should also include the financial gain of the employer with the commitment of the infraction, in order to dissuade non-compliance;

vii. In conclusion: proposed sanctions for non-compliance with the provisions of the labour code should be further reviewed, in order to ensure that ""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", as foreseen in Article 18 of ILO C081 and Article 24 of ILO C129.

k. Finally, and in what concerns the need to ensure consistency in the application of labour legislation across the entire territory of Ukraine, especially in a context within which it is foreseen (in the suggested wording of part 4 of Article 259 of the Code of Labor Laws) that “In cases established by legislation, state supervision (control) of compliance with the labour legislation may also be exercised by local governments”, through a better alignment of the draft law with ILO C081 and C129, some amendments are needed to the proposed Articles 259 (on State supervision (control) of compliance with the labour legislation), 260 (on the state labour inspection), and 271 (on the particularities of exercising of the control of compliance with the labour legislation by local governments).

The detailed recommendations, along with the respective rationale, are presented below.

It is our expectation that, by the end of this process, Ukraine may benefit from a better and modern law on occupational safety and health, properly aligned with the international and European labour standards and best practices, which contributes to the effective improvement of the working conditions in the country.

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EU-ILO Project recommendations

OSH draft Law provision's wording	Recommended wording	Rationale
Article 1. Terms and definitions		
1) workstation appraisal ……	**1) workplace** appraisal ……..	The appraisal refers to "workplace" and not "workstation" (see, below, the different definitions for the terms "workplace" and "workstation".
7) expert organization – an appointed economic entity which provides services for carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment, and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works and/or audit of workers' safety and health systems, and which has the competence confirmed according to the procedure set forth by law;	7) expert **entity on safety and health of workers** – an appointed **legal person or natural person** which competence for the provision of the following **occupational safety and health of workers services** is confirmed according to the procedure set forth by law: **a. Development of** hygienic studies of working conditions; **b. Carry-out** technical inspection and expert examination of the work equipment; **c.** Provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works; **d. Perform** audit of workers' safety and health systems **e. To organize, coordinate, assess and monitor the operation and effectiveness of the safety and health workers system;** **f. Organize and participate in the identification of hazards, analysis and assessment of occupational risks and draw up the respective reports;** **g. Formulation and follow-up of occupational risks prevention plans;**	The legislation should also provide for the possibility of the expert entity being a natural person that is competent, have the necessary means and meets the necessary requirements. Moreover, it should be avoided the (duplication of) existence of "expert organizations"/entities for one side and "Authorized entities for safety and health of workers" (Article 15). These two types of entities, foreseen in the draft, should be merged into just one type: "Expert entities on safety and health of workers". The services to be provided by the "Expert entities on safety and health of workers" should also include the other OSH services that this law foresees that the employers have to provide to their workers, within their obligation to organize and ensure the functioning of the occupational safety and health of workers system (Article 14), through the authorized entities for safety and health of workers (Article 15), for example: • Identification of hazards, risk assessment and risk control; • Formulation of plans for the prevention of occupational risks;

OSH draft Law provision's wording	Recommended wording	Rationale
	h. Formulation of proposals on measures for prevention of occupational risks and on necessary steps to improve their efficiency; **i. Provision of advice on safety and health of workers and on the use of personal and collective protective equipment;** **j. Organize surveillance of workers' health and medical examinations;** **k. Monitor the work environment and working practices which may adversely affect the health of workers;** **l. Plan and organize the measures for first aid, elimination of breakdowns, fire-fighting and evacuation of workers;** **m. Provision of expertise on the investigation and analysis of occupational accidents and occupational diseases;** **n. Organize training of, provision of information to, and consultations with workers and workers' representatives on occupational safety and health;** **o. Provision of advice on planning and organization of work activities, including the workplace/workstation design, the choice, operation and condition of work equipment, and substances used at work;** **p. Development of measures for the improvement of working practices as well as in testing and evaluation of the safety and health aspects of new work equipment which concern safety and health of workers;** **q. Adaptation of the working environment to workers;**	• Draw up proposals on measures for prevention of occupational risks and on necessary steps to improve their efficiency; • Provide advice on safety and health of workers and on the use of personal and collective protective equipment; • Participate in investigation and analysis of accidents and occupational diseases; • Etc.

OSH draft Law provision's wording	Recommended wording	Rationale
	r. Provision of technical advice on measures of vocational rehabilitation.	
18) accident - a time-bounded event or a sudden impact upon the worker of a hazardous or harmful occupational factor or working environment that occurred during, or in connection with, the worker's performance of their work and resulted in any damage to their health or in their death;	18) **occupational** accident - **an occurrence arising out of, or in the course of, work which results in fatal or non-fatal injury**;	To align with the definition of the Article 1(a) of ILO Protocol No. 155, of 2002;
19) night worker – a worker who, during night time, works at least three hours of their daily working time and no less than ¼ of their annual working time standard;	19) night worker – a worker who, during night time, works at least three hours of their daily working time **or** no less than ¼ of their annual working time;	To align with Article 2(4)(a) of Directive 2003/88/EC.
21) appointing authority – the central executive authority that appoints expert organizations, extends or reduces their scope of appointment, suspends, cancels or renews their appointment as well as ensures evaluation and monitoring of such expert organizations;	21) appointing authority – the central executive authority that appoints **expert entities on safety and health of workers**, extends or reduces their scope of appointment, suspends, cancels or renews their appointment as well as ensures evaluation and monitoring of such expert **entities**;	To ensure the necessary consistency of this sub-paragraph with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
27) appointment – granting of the right by the appointing authority to an expert organization to undertake certain activities for carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment, and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works and/or audit of workers' safety and health systems;	27) appointment – granting of the right by the appointing authority to an **expert entity on safety and health of workers to provide one or more of the services of occupational safety and health of workers enumerated in the sub-paragraph 7) of paragraph 1 of this Article**;	To ensure the necessary consistency of this sub-paragraph with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
28) occupational disease – a disease (poisoning) caused solely or mainly by the worker's exposure	28) occupational disease – **any disease contracted as a result of an exposure to risk factors arising from work activity**;	To align the definition with Article 1(b) of ILO Protocol No. 155, of 2002.

OSH draft Law provision's wording	Recommended wording	Rationale
to work-related hazardous and/or harmful occupational factors;		
40) authorized entity for safety and health of workers – a competent worker or a structural unit of the employer, designated by the employer, which organizes work concerning safety and health of workers; or a legal person or individual entrepreneur providing services concerning safety and health of workers according to the procedure set forth by law;	**40) Authorized internal structural unit for safety and health of workers – a structural unit, within the organization of the employer, composed by employees of the employer that are competent workers for organizing and carrying out the activities concerning the safety and health of workers pursuant to Article 15;** **41) Authorized worker for safety and health of workers – an employer's competent employee, designated by the employer for organizing and carrying out the activities concerning the safety and health of workers pursuant to Article 15.**	To better clarify the internal OSH services providers, who are the "Authorized internal structural unit for safety and health of workers" and the "Authorized worker for safety and health of workers", differentiating them from the external OSH services providers, which are the "expert entity on safety and health of workers" (better defined in the sub-paragraph 7) of this same Article).
41) ……	**42)** ……	To renumber the paragraph.
Article 4. State policy on safety and health of workers		
16) setting forth requirements to economic entities that provide market services in the field of safety and health of workers and state control of their observance;	16) setting forth requirements **for natural and legal persons to** provide market services in the field of safety and health of workers and state control of their observance;	To ensure consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
	Article 5. National system for Safety and Health at Work	It should be inserted this Article to specify and describe the National System for OSH aimed at implementing the national policy on OSH (mentioned in the previous paragraph) and to pave the way for the ratification of the ILO Convention 187. Note: all Articles from this one on should be renumbered (next one should be Article 6).
	1. The national system for occupational safety and health aims at implementing the right to occupational safety and health, by safeguarding the consistency of measures and the effectiveness of the intervention of public, private or cooperative entities conducting, in that context, duties in the areas of regulation, licensing, certification, standardization, research, training, information, consultation and	

OSH draft Law provision's wording	Recommended wording	Rationale
	participation, technical services of prevention and health surveillance, and inspection.	
	2. The State must promote the development of a national network for the prevention of occupational risks in the action areas referred to in the preceding paragraph	
	3. In the occupational safety and health field, cooperation between the State and the representative organizations of workers and employers must be developed and also at the employer, establishment or service level, between the employer and the representatives of workers and employers.	
	4. Public services responsible for licensing, certification or other authorization for the undertaking of an activity or the assigning of an asset to such undertaking should perform their duties in order to promote occupational safety and health.	
	5. Coordination of the implementation of the policy measures and the evaluation of results, in particular those relating to the inspection activity, is the responsibility of the competent bodies of the ministry responsible for the labour area.	
	6. The policy measures adopted and the evaluation of the results of those policies and of inspections undertaken in the occupational safety and health field, as well as the statistical information on occupational accidents and occupational diseases, must be annually published and adequately disclosed.	

OSH draft Law provision's wording	Recommended wording	Rationale
	7. For the purposes of the preceding paragraph, the statistical information should allow the description of occupational accidents and diseases in order to contribute to epidemiological studies, enabling the adoption of appropriate criteria and methodologies to design nationwide and sector-specific prevention programmes and measures and the periodic control of results.	
	8. The national system for occupational safety and health shall include:	
	1) a national tripartite advisory body, or bodies, addressing occupational safety and health issues;	
	2) information and advisory services on occupational safety and health;	
	3) the provision of occupational safety and health training;	
	4) occupational safety and health services;	
	5) research on occupational safety and health;	
	6) a mechanism for the collection and analysis of data on occupational injuries and diseases;	
	7) provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases; and	
	8) support mechanisms for a progressive improvement of occupational safety and health conditions in micro-enterprises, insmall and medium-sized enterprises and in the informal economy.	

OSH draft Law provision's wording	Recommended wording	Rationale
Article 10. Ensuring sanitary rules and regulations		
3. Depending on the actually identified levels of exposure to the work environment and work process factors, and with account of their likely harmful impact on workers' health, employers shall, involving **authorized entities for safety and health of workers** and workers' representatives, plan and implement measures for improvement of working conditions to reduce workers' exposure to the harmful and hazardous work environment factors by means of removing or decreasing their level to maximum permissible values	3. Depending on the actually identified levels of exposure to the work environment and work process factors, and with account of their likely harmful impact on workers' health, employers shall, involving **authorized internal structural units for safety and health of workers, authorized workers for safety and health of workers,** workers' representatives **and, where appropriate, expert entities on safety and health of workers,** plan and implement measures for improvement of working conditions to reduce workers' exposure to the harmful and hazardous work environment factors by means of removing or decreasing their level to maximum permissible values	To ensure consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
Article 11. Special conditions for performance of works	**Article 11.** Special conditions for performance of **high-risk** works	To improve clarity.
1. In cases where the nature and level of hazard of works performance of which is connected with an objectively higher risk of the impact of hazardous and harmful occupational factors on workers' health and life (high-risk works) so require, such works may only be performed subject either to additional life and health insurance of the workers performing such works or to an authorization for performance of such works according to this Article.	1. In cases where the nature and level of hazard of works performance of which is connected with an objectively higher risk of the impact of hazardous and harmful occupational factors on workers' health and life (high-risk works) so require, such works may only be performed subject **to an authorization for performance of such works according to this Article and subject to additional life and health insurance of the workers performing such works**.	Should be changed because stating that, in case of high-risk works the workers can perform them "subject **either** to additional life and health insurance of the workers performing such works **or** to an authorization for performance of such works" is likely to put into question one of the main EU principles, which, moreover, justified the EU OSH Framework Directive 89/391/EEC: the principle that "the improvement of workers' safety, hygiene and health at work is an objective which should not be subordinated to purely economic considerations". In fact, the proposed wording **allows workers to perform high-risk workers only with an additional health and life insurance**. Is like saying that "you can do such

OSH draft Law provision's wording	Recommended wording	Rationale
		works and, if you die or get injured, there is no problem: your damages will be covered….". It is, again, the adoption of a reparation, compensation and protection approach, instead of an approach based on the PREVENTION! As such, this wording should be changed to subject the performance of such high-risk works to the following alternative conditions: when such performance is authorized; or when the performance of such high-risk works is authorized AND there is an additional health and life insurance. In addition, it should be inserted another paragraph stating that, in case of authorization for the performance of such high-risk works, employer shall take all the adequate and necessary measures to minimize their impact on the safety and health of the workers.
3. An authorization for performance of high-risk works mentioned in the first part of this Article shall be issued to the employer by the central executive authority that implements the state policy on safety and health of workers, based on an expert organization's positive opinion as to the employer's capacity of ensuring safe performance of the works applied for.	3. An authorization for performance of high-risk works mentioned in the first part of this Article shall be issued to the employer by the central executive authority that implements the state policy on safety and health of workers, based on **a** positive opinion **of an** expert **entity on safety and health of workers** as to the employer's capacity of ensuring safe performance of the works applied for.	To ensure the necessary consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
An authorization for performance of high-risk works shall be issued to military units, enterprises, institutions, organizations and other units falling within the scope of management of military and law-enforcement entities by **specially authorized structural units** of those entities based on an **expert organization's**	**4**. An authorization for performance of high-risk works shall be issued to military units, enterprises, institutions, organizations and other units falling within the scope of management of military and law-enforcement entities by specially authorized **internal** structural units of those entities based on **a** positive opinion **of an** expert **entity on safety and health of workers** as to the employer's ability	To ensure consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law. Also to renumber the paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
positive opinion as to the employer's ability to ensure safe performance of the works applied for.	to ensure safe performance of the works applied for.	
4. The authorizations shall be issued free of charge and shall remain in force without time limit except for cases provided for in the ninth part of this Article.	**5.** The authorizations shall be issued free of charge and shall remain in force without time limit except for cases provided for in the paragraphs **ten and eleven** of this Article.	In order to clarify that the authorizations will be issued and remain in force without any limit except in the cases of refusal to issue them (part eleven) or in case they are revoked (part twelve). Also to renumber the paragraph.
5. ……	**6**. ……	Renumbering of the paragraph.
6. ……	**7**. ……	Renumbering of the paragraph.
7. Within 10 working days from receipt of an application for an authorization and an expert organization's positive opinion as to the employer's ability to ensure safe performance of the works applied for, the central executive authority that implements the state policy on safety and health of workers shall make its decision as regards issuance of, or justified refusal to issue, an authorization, specifying the grounds set forth in this Article.	**8**. Within 10 working days from receipt of an application for an authorization and **a** positive opinion **of an** expert **entity on safety and health of workers** as to the employer's ability to ensure safe performance of the works applied for, the central executive authority that implements the state policy on safety and health of workers shall make its decision as regards issuance of, or justified refusal to issue, an authorization, specifying the grounds set forth in this Article.	To ensure the necessary consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law. Also to renumber the paragraph.
If, within the time limit set by law, no authorization for performance of high-risk works is issued to an **economic entity** or no decision is made to refuse to issue it, the **economic entity** shall have the right, within 10 working days from the expiry of the time limit set for the issuance of, or refusal to issue, the authorization document, **to take certain actions for undertaking economic activity or certain types of economic activity.**	**9**. If, within the time limit set by law, no authorization for performance of high-risk works is issued to an **employer** or no decision is made to refuse to issue it, the **employer** shall have the right, within 10 working days from the expiry of the time limit set for the issuance of, or refusal to issue, the authorization document, **to take certain actions for undertaking economic activity or certain types of economic activity.**	To clarify that the mentioned "economic entity" is the "employer". **The mentioned "certain actions for undertaking economic activity or certain types of economic activity" (that the employer can take if no decision on the requested authorization is provided within the time limit defined) need to be clearly specified in this law.** Also to number the paragraph.
8. ……	**10**. ……	Renumbering of the paragraph.
3) the expert organization's positive opinion provided as to the employer's ability to ensure safe performance of the works applied for was	3) **the positive opinion of the expert entity on safety and health of workers regarding** the employer's ability to ensure safe performance of	To ensure the necessary consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.

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drawn up more than 6 months prior to the application submission date.	the works applied for was drawn up more than 6 months prior to the application submission date.	
	4) Within the two years prior to the request of the authorization occurred a breakdown, explosion, fire, fatal occupational accident, occupational accident resulting in absence for more than three working days due to incapacity to work or demonstrating a particularly serious situation in terms of Safety and Health at Work, due to the performance of the high-risk works for which the authorization is requested;	Insert this sub-paragraph to penalize and dissuade unsafe and unhealthy working conditions and non-compliance with OSH regulations and, at the same time, to promote the adoption of good practices in the field of OSH, to ensure the safety and health of the workers and to prevent work-related accidents and occupational diseases.
	5) If the employer has been convicted for the practice of infringement to this law, in connection with the performance of high-risk works, within the two years prior to the request of the authorization;	Insert this sub-paragraph to penalize and dissuade unsafe and unhealthy working conditions and non-compliance with OSH regulations and, at the same time, to promote the adoption of good practices in the field of OSH, to ensure the safety and health of the workers and to prevent work-related accidents and occupational diseases.
	6) If, following an inspection visit, the central executive authority that implements the state policy on safety and health disagrees with the expert organization's opinion or believes that the employer has no capacity to perform the concerned works in conditions that ensure the safety and health of workers.	Insert this sub-paragraph to penalize and dissuade unsafe and unhealthy working conditions and non-compliance with OSH regulations and, at the same time, to promote the adoption of good practices in the field of OSH, to ensure the safety and health of the workers and to prevent work-related accidents and occupational diseases.
9. ……	**11**. ……	Renumbering of the paragraph.
3) a substantiated opinion made by the labour inspector as a result of an inspection visit stating that the employer did not ensure safety and health workers in performance of the works applied for according to the requirements hereof.	3) a substantiated opinion made by the labour inspector as a result of an inspection visit stating that the employer did not ensure **the** safety and health workers in performance of the works applied for according to the **OSH legislation.**	It should not be just about the employer incapacity to perform high-risk works "according to the requirements hereof" (of this article), but also with his/her incapacity to perform such high-risk works in accordance with all OSH legislation.

OSH draft Law provision's wording	Recommended wording	Rationale
	4) If the employer has been convicted for the practice of infringement to this law, in connection with the performance of the concerned high-risk works or activities;	Insert this sub-paragraph to penalize and dissuade unsafe and unhealthy working conditions and non-compliance with OSH regulations and, at the same time, to promote the adoption of good practices in the field of OSH, to ensure the safety and health of the workers and to prevent work-related accidents and occupational diseases.
10. ……	**12**. ……	Renumbering of the paragraph.
11. ……	**13**. ……	Renumbering of the paragraph.
12. In any case specified by the first part of this Article, the employer shall be responsible for the safety and health of workers and shall be required to take measures provided hereby to minimize as much as possible occupational risks and the impact of the working environment on the safety and health of workers	**14. Where the authorization for the performance of the high-risk works mentioned in the first paragraph of this Article has been issued, employer shall take all the necessary and adequate measures, as foreseen in this law, to minimize as far as practically possible the occupational risks and their impact on the safety and health of the workers.**	In order to ensure that the high-risk works which performance is authorized are carried out in a way that minimizes, as far as practically possible, the occupational risks to which workers will be exposed to.
Article 12. Special conditions for the use of work equipment	**Article 13. Conditions for the use of work equipment**	To delete "Special", because this Article does not address exclusively high-risk work equipment.
Article 14. Occupational safety and health of workers system		
6) replacing the work equipment by non-dangerous or less dangerous equipment;	6) replacing **the dangerous** by the non-dangerous **or the less dangerous**;	Should be changed, because Article 6(2)(f) of Directive 89/391/EEC states "replacing the dangerous by the non-dangerous or the less dangerous", meaning that all types of agents (physical, chemical, biological, <u>including but not restricted to work equipment</u>, etc.) which are dangerous should be substituted by others that are non-dangerous or less dangerous.

OSH draft Law provision's wording	Recommended wording	Rationale
Article 15. Authorized entities for safety and health of workers	**Article 15. Organization and functioning of the safety and health of workers system**	Because "expert entities on safety and health of workers" should also be able to provide OSH services to employers, as seen in earlier.
1. In order to organize and ensure proper operation of the safety and health of workers system, the employers:	1. In order to organize and ensure the proper **functioning** of the safety and health of workers **system according to Article 15, and without prejudice to other obligations of this law,** the employers **shall ensure the provision of preventive and protective safety and health services to workers, organizing them for each workplace, undertaking and/or establishment, through one service for safety and health or through separate services - one for safety and other for health -, whether with internal or outside, according to the following:**	Should be changed to better align with provisions of Articles 7(1) and 7(6) of Directive 89/391/EEC. In particular, because the protective and preventive services should be organized per undertaking and/or establishment, as foreseen in Article 7(1) of Directive 89/391/EEC. Moreover, it should also be changed because the employer's obligation to organize the provision of preventive and protective safety and health services is without prejudice to other employers' obligations and, most especially, designed to give employers some flexibility on the modalities of organization. In particular: 1. The provision of services may be provided through just one joint service (for safety and health) or through separate services (one for safety and other for health); 2. The services of safety, for one side, and the services of health, for the other (or both) may be provided internally or by external entities, depending on the requirements that the country decides to establish; 3. The employer, depending on the requirements to be defined may, according to Article 7(6) of the Directive, organize different types of services (internal or external) depending on the type of the workplace (in particular, taking into account the number of workers in that workplace and the natures of the risks to each they are

OSH draft Law provision's wording	Recommended wording	Rationale
		or may be exposed to - for example, if they have to perform high risk works). This possibility is particular useful, as it allows an employer that has several high-risk works workplaces (or workplaces with a lot of workers) and other workplaces that do not have high-risk works (or that have less number of workers), to adopt the modality of internal safety and health services in the workplaces that have high risk works (or a higher number of workers) but, at the same time, he will be able to adopt the modality of external safety and health services for the workplaces that do not have high-risk works or that have less number of employees. In the present wording of this draft law, employers are not able to choose different modalities per workplace (depending on the number of workers and risks present at each workplpace), having instead to implement the same modality (which depends on their global number of workers and if they have high-risk works) in every workplaces, preventing them to benefit from the flexibility offered by the Directive provisions.
a) employing more than 300 persons, or more than 50 persons in case of high-risk works, shall establish (designate) one or more authorized structural units for safety and health of workers;	**1) for workplaces, undertakings and/or establishments** employing more than 300 persons, or more than 50 persons in case of high-risk works, **employers** shall establish (designate) one or more authorized **internal** structural units for safety and health of workers, **composed by employer's employees;**	Should be changed to better align with provisions of Article 7(1) and 7(6) of Directive 89/391/EEC. In fact, and according to Article 7(1) of Directive 89/391/EEC, the protective and preventive services should be organized per undertaking and/or establishment. Moreover, the services of safety, for one side, and the services of health, for

OSH draft Law provision's wording	Recommended wording	Rationale
b) employing more than 50 persons, or regardless of the number of workers in case of high-risk works, shall designate an authorized person from among its employees on whom responsibilities for organizing the operation of the safety and health of workers management system shall be placed, or shall establish an authorized structural unit for safety and health of workers.	**2) for workplaces, undertakings and/or establishments** employing more than 50 persons, or regardless of the number of workers in case of high-risk works, **employers** shall designate an authorized **worker** from among its employees on whom responsibilities for organizing the operation of the safety and health of workers management system shall be placed, or shall establish an authorized **internal** structural unit for safety and health of workers **composed by employer's employees**.	the other (or both) should be established internally or through external service providers) by workplace, taking into account the number of workers of each workplace and the risks to which they are exposed in each workplace. Should also be changed to renumber the paragraphs (for consistency reasons).
2. The employers shall have the right to engage additionally, while meeting the requirements set forth in this part, economic entities providing services on safety and health of workers to organize the operation of the safety and health of workers management system.	2. The employers shall have the right to engage additionally, while meeting the requirements set forth in this part, **expert entities on safety and health of workers** to organize the operation of the safety and health of workers management system.	To specify that the mentioned "economic entities" are the "expert entities on safety and health of workers".
3. The employers employing not more than 50 persons shall designate an authorized person from among its employees on whom responsibilities for organizing the operation of the safety and health of workers management system shall be placed, or shall establish an authorized structural unit for safety and health of workers, or shall engage economic entities providing services on safety and health of workers	3. **Regarding workplaces, undertakings and/or establishments** employing not more than 50 persons, **employers** shall designate an authorized **worker** from among its employees on whom responsibilities for organizing the operation of the safety and health of workers management system shall be placed, or shall establish an authorized **internal** structural unit for safety and health of workers **composed by employer's employees**, or shall engage **expert entities on safety and health of workers.**	Should be changed to better align with provisions of Article 7(1) and 7(6) of Directive 89/391/EEC. In fact, and according to Article 7(1) of Directive 89/391/EEC, the protective and preventive services should be organized per undertaking and/or establishment. Moreover, the services of safety, for one side, and the services of health, for the other (or both) should be established internally or through external service providers) by workplace, taking into account the number of workers of each workplace and the risks to which they are exposed in each workplace. In addition, it is also important to specify that the mentioned "economic entities" are the "expert entities on safety and health of workers".

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4. The authorized structural units, authorized persons and engaged economic entities providing services on safety and health of workers, mentioned in the first to third parts of this Article, must have the necessary qualification, professional capabilities, aptitudes and means and must be sufficient in number to deal with the organization of the safety and health of workers system, taking into account the size of the enterprise, the number of workers, and the hazards to which the workers are exposed.	4. **In all the cases mentioned in the preceding paragraphs of this Article, the** authorized **internal** structural units, authorized **worker** and engaged **expert entities on safety and health of workers** providing services on safety and health of workers, must have the necessary qualification, professional capabilities, aptitudes and means and must be sufficient in number to deal with the organization of the safety and health of workers system, taking into account the size of the **workplace**, the number of workers, and the hazards to which the workers are exposed.	To better align with Article 7(5) of Directive 89/391/EEC. The employer should organize the provision of OSH services per workplace, considering the number of workers and the risks to which they are exposed in each workplace, and not globally. As such, the number of workers to be considered should be the number of workers per workplace, and not the total number of workers of the "enterprise". Moreover, the expression "enterprise" should be avoided, because the employer may not be an enterprise, but a self-employer worker with employees, a public entity, a cooperative, an association, or any other organization which is not an "enterprise".
5. Model regulations on the authorized structural unit for safety and health of workers and on the authorized person from among the employer's employees on whom responsibilities for organizing the operation of the safety and health of workers management system are placed shall be defined by the central executive authority that ensures the formulation and implementation of the state policy on safety and health of workers.	5. Model regulations on the authorized **internal** structural unit for safety and health of workers and on the authorized **worker** from among the employer's employees on whom responsibilities for organizing the operation of the safety and health of workers management system are placed shall be defined by the central executive authority that ensures the formulation and implementation of the state policy on safety and health of workers.	For clarity.
6. Main functions of the authorized entities for safety and health of workers shall be to:	6. Main functions of the **safety and health of workers system that must be ensured by the employer, pursuant to Article 14 and paragraphs 1 to 4 of this Article,** shall be to:	Should be changed, because the functions are of the occupational safety and health of workers system as a whole, and not specifically or exclusively of the authorized units or persons, but also, when engaged, of the expert entities on safety and health of the workers.
2) organize, and participate in, identification of hazards, analysis and assessment of	2) organize and participate in **the** identification of hazards, analysis and assessment of	To better align with Articles 5(a) and 5(k) of Occupational Health Services Convention, 1985 (No. 161) and Article 9(1)(a) of Directive

OSH draft Law provision's wording	Recommended wording	Rationale
occupational risks, and draw up relevant documents;	occupational risks and draw up **of the respective reports**;	89/391/EEC. In fact, it is important to stress that the obligation to draw up reports refers specifically to reports on the identification of hazards and the assessment of occupational risks and not to any other unspecified "relevant documents".
7) organize observation of work environment factors likely to adversely affect health of workers including sanitary installations, canteens and housing when these facilities are provided by the employer;	7) **monitor the** work environment **and working practices which may** adversely affect **the** health of workers, including sanitary installations, canteens and housing when these facilities are provided by the employer;	To better align with Articles 5(b) of ILO C161.
7. When performing the functions listed above, the authorized entities for safety and health of workers and/or their personnel shall enjoy full professional independence from employers, workers and their representatives	7. When performing the functions listed above, **the workers of** the authorized **internal structural units for safety and health of workers and the authorized workers for safety and health of workers** shall enjoy full professional independence from the employer, **other** workers and **worker's representatives**. **8. When performing the functions listed above, the expert entities on safety and health of workers and their subcontracted entities, when they exist, as well as their personnel, shall enjoy full professional independence from their contractors, employers, workers and their representatives.**	To better clarify that not only the employers' employees that are integrated in the internal authorized units or designated by the employer as authorized person for safety and health of workers should enjoy independence, but also the expert entities on safety and health of workers, their subcontracted entities (when they exist) and their personnel.
8. Requirements of the the economic entities providing services on occupational safety and health of workers and to their workers, to workers of authorized structural units, and to authorized persons shall be set out by the central executive authority that ensures the formulation and implementation of the state policy on safety and health of workers.	**9. Requirements of the expert entities on safety and health of workers are laid down on Article 37 and following of Section VIII of this law.** **10. Requirements of the workers of the expert entities on safety and health of workers, as well as of the employer's workers of the authorized internal structural units for safety and health of workers and of the authorized persons for**	Should be changed, as the requirements of the "expert entities for safety and health of workers" are already laid down on Article 37 of this law. As for their workers, as well as for the employer's workers of the employer's workers of the authorized internal structural units and employer's authorized worker, it needs to be defined (eventually by the central executive

OSH draft Law provision's wording	Recommended wording	Rationale
	safety and health of workers shall be set out by the central executive authority that ensures the formulation and implementation of the state policy on safety and health of workers.	authority that ensures the formulation and implementation of the state policy on safety and health of workers).
9. The records of the economic entities providing services on occupational safety and health of workers meeting the requirements for the authorized entities for occupational safety and health shall be maintained by the central executive authority that ensures implementation of the policy on control of compliance with the labour legislation, according to the procedure set out by the central executive authority that ensures the formulation and implementation of the state policy on occupational safety and health of workers.	**11.** The records of the **appointed expert entities on safety and health of workers** shall be maintained by the central executive authority that ensures implementation of the policy on control of compliance with the labour legislation, according to the procedure set out by the central executive authority that ensures the formulation and implementation of the state policy on occupational safety and health of workers.	To better articulate with the Articles 37 to 46 of of the new Section (SECTION VIII. EXPERT ENTITIES ON SAFETY AND HEALTH OF WORKERS).
10. If an economic entity providing services on safety and health of workers is engaged, according to the procedure set forth in this Article, the employer shall provide to such an economic entity information necessary to organize the occupational safety and health management system, to identify hazards and to assess occupational risks in all workplaces/at all workstations and all stages of the employer's activities.	**12.** If an **expert entity on safety and health of workers** is engaged, according to the procedure set forth in this Article, **the employer and such expert entity shall cooperate and** the employer shall provide to such **expert entity the** information necessary to organize the occupational safety and health management system, to identify hazards and to assess occupational risks in all workplaces**,** at all workstations and **at** all stages of the employer's activities.	Should be changed to better align it to Articles 7(4) and 7(6) of Directive 89/391/EEC and also to ensure the necessary consistency of this paragraph with the rest of Article 15, as well as with sub-paragraphs 7) and 40) of Article 1 and Section VIII of this law. Also to renumber the paragraph.
11. Engagement of an economic entity providing services on safety and health of workers by the employer shall not release the employer from liability for violations of the legislation on safety and health of workers and for any damage to	**13.** Engagement **by the employer** of an **expert entity on safety and health of workers in the provision of** services on safety and health of workers shall not release the employer from liability for violations of the legislation on safety and health of workers and for any damage to	

OSH draft Law provision's wording	Recommended wording	Rationale
health and life of workers caused due to such violations.	health and life of workers caused due to such violations.	
12. Liability of the economic entity providing services on occupational safety and health of workers for poor quality of the services provided shall be defined by a contract on provision of such services, and may be ensured, in particular, by means of insurance of such an entity's professional activity likely to cause damage to third persons.	**14.** Liability of **expert entities on safety and health of workers** providing services on occupational safety and health of workers for poor quality of the services provided shall be defined by a contract on provision of such services, and may be ensured, in particular, by means of insurance of such an entity's professional activity likely to cause damage to third persons.	
Article 16. Occupational risk management		
1) identification of hazards, including by means of workstation appraisal in terms of working conditions;	1) identification of hazards, including by means of **workplace** appraisal in terms of working conditions;	In order to ensure consistency of the definition of the terms "workplace" and "workstation".
a) applying the measures aimed at removing and/or reducing the risk extent by means of replacing the dangerous work processes and work equipment by the non-dangerous or less dangerous;	a) applying the measures aimed at removing and/or reducing the risk extent by means of replacing the dangerous work processes**,** work equipment**, physical agents, chemical agents and biological agents** by the non-dangerous or less dangerous;	Should be changed, because work processes and work equipment are not the only sources of danger at workplaces.
Article 17. Collective and personal protective equipment		
5. The minimum requirements to safety and health for the use of personal protective equipment by workers shall be set forth by the central executive authority that ensures the formulation and implementation of the state policy on occupational safety and health of workers.	5. The minimum **safety and health requirements** for the use **by workers** of personal protective equipment **at the workplaces** shall be set forth by **the Cabinet of Ministers of Ukraine, as submitted by the central executive authority that ensures the formulation of the state policy on safety and health of workers**.	Should be changed to ensure that the national legislation on the minimum safety and health requirements for the use by workers of personal protective equipment at the workplaces (that, as foreseen in the EU-UKR Association Agreement, should transpose the Directive 89/656/EEC, of 30 November 1989, on the minimum health and safety requirements for the use by workers of

OSH draft Law provision's wording	Recommended wording	Rationale
		personal protective equipment at the workplace) will: • Have the necessary legal power (as a CMU Decree) to allow that its provisions prevail over contrary or contradictory provisions of other current or future legal acts with lower legal power (such as Ministry Orders); • Be stable and sustainable and will not be easily revoke or repealed each time the competent Minister changes.
Article 18. Audit of the safety and health of workers systems		
1. Audit of the occupational safety and health of workers system shall be used to assess its operating efficiency.	1. Audit of the safety and health of workers system shall be used to assess its **effectiveness in ensuring the safety and health of workers.**	Should be changed because "efficiency" is a measure of the inputs consumed by unit of output; whereas "effectiveness" is a measure of the extension with which the objectives were attained. In this case, what is relevant to measure is not if the system is efficient but if the system is effective in ensuring the safety and health of workers - which should be the main objective of the audit.
……	**4.** ……	To renumber the paragraph.
4. External audit of the occupational safety and health of workers system shall be carried out according to an agreement by the economic entities providing services of audit of the safety and health of workers systems and meeting the requirements set forth by the central executive authority that ensures the formulation and implementation of the state policy on safety and health of workers.	**5.** External audit of the occupational safety and health of workers system shall be carried out according to an agreement **with an appointed expert entity on safety and health of workers** providing services of audit of the safety and health of workers systems **pursuant to Articles 37 and following of Section VIII of this law**.	To ensure consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law. Also to renumber the paragraph.
5. ……	**6.** ……	To renumber the paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
6. ……	**7.** ……	To renumber the paragraph.
Article 19. Workers' health surveillance and health examinations		
8. The employer shall be required to ensure health examinations of:	8. **Without prejudice of other provisions of this law or of other legislation on occupational safety and health of workers**, the employer shall be required to ensure health examinations of:	Should be changed to ensure the validity of other legal provisions (of this law or of other OSH regulations) on health examinations that require different frequency and / or scope that the ones foreseen in this paragraph. For example, in what respects: pregnant workers and workers who have recently given birth or are breastfeeding (as foreseen in Directive 92/85/EEC); workers exposed to specific risks, such as chemical agents (98/24/EC) or biological agents (2000/54/EC); etc. Also to renumber the paragraph.
1) ……		
2) workers whose workstations and working conditions contain or are likely to contain occupational health risks – when concluding a labour contract and periodically, according to the schedule of compulsory health examinations of workers approved by the employer;	2) **workers that are or maybe be exposed to occupational risks at work** – when concluding a labour contract and periodically, according to the schedule of compulsory health examinations of workers approved by the employer;	To better clarify what type of workers should be ensured health examination, as the health risks may come from different material components of work, not just from their own workstation in particular, as indicated in this provision.
3) night workers – prior to concluding a labour contract and periodically, according to the schedule of compulsory health examinations of workers approved by the employer;	3) night workers – **before their assignment and thereafter at regular intervals**, according to the schedule of compulsory health examinations of workers approved by the employer **and when they experience health problems during such an assignment which are not caused by factors other than the performance of night work;**	To better align with Article 4(1)(a), (b) and (c) of ILO Night Work Convention, 1990 (No. 171) and Article 9(1)(a) of Directive 2003/88/EC of the European Parliament and of the Council, of 4 November 2003, concerning certain aspects of the organization of working time.
4) ……		
5) workers whose state of health is likely to create a hazard or cause damage to their health	5) workers whose state of health**, according to an occupational physician (specialist),** is likely to create a hazard or cause damage to their health	To ensure that such state of heath is accessed by someone that has the legal competence to make that evaluation.

OSH draft Law provision's wording	Recommended wording	Rationale
or health of other workers – when the employer so decides;	or health of other workers – when the employer so decides;	
	6) each worker, if s/he so wishes - at regular intervals.	This sub-paragraph should be inserted in order to better align with Article 14(2) of Council Directive 89/391/EEC.
9. The employer shall organize and ensure, at their own expense, health examinations of workers during working hours with pay. The worker must be informed of the content of the medical certificate of health examination.	9. The employer shall organize and ensure, at their own expense, **the** health examination of workers during working hours with pay.	This provision should be sub-divided because it foresees two different obligations. Moreover, the obligation of the employer to inform workers on the results of the health examination is better served if it foresees that the worker has to sign the medical fitness certificate, as the worker's signature is the evidence that the employer fulfilled his obligation.
	10. The employer must inform workers about the content of the fitness certificate, which must contain the signature of the worker with the date s/he was made aware of its content.	
	11. The medical fitness certificate cannot contain medical data and information covered by professional confidentiality.	To align with European acquis and best practices on the protection of the privacy of individuals in relation to the processing and dissemination of personal data, on the protection of confidentiality of individual records and on the protection of medical professional confidentiality.
Article 20. Training of workers		
1. ……		
1) ……		
2) ……		
3) ……		
4) ……		
5) ……		
This list shall not be exhaustive.	**2.** The list of situations in which employer is required to ensure training to workers mentioned in the preceding paragraph **shall not be exhaustive.**	Should be changed to numerate the paragraph and to clarify what list it refers to.

OSH draft Law provision's wording	Recommended wording	Rationale
.....	**3.**	To number the paragraph.
2.	**4.**	To renumber the paragraph.
1)		
2) workers' representatives are provided with appropriate training for the exercise of their functions **by them**;	2) workers' representatives are provided with appropriate training for the exercise of their functions; **Delete expression "by them", at the end**	The expression **"by them"** should be deleted, for the sake of clarity: if it refers to the fact that the functions of workers' representatives are to be exercised by them, that is obvious; if it is not, it might look like the workers' representatives are supposed to train themselves on OSH, whereas that should be an obligation of the employer.
3)		
4)		
3. According to the types of work performed, the safety and health of workers training shall be provided in the form of training and knowledge testing directly by the employer or by the economic entities providing services of training on safety and health of workers to at least the following categories:	**5. Special training on** safety and health of workers shall be provided in the form of training and knowledge testing directly by the employer or by the **expert entities on safety and health of workers** providing services of training on safety and health of workers to at least the following categories:	Should be revised, for clarity. To better clarify that the workers listed below have to undergo **a special training** (more specific, demanding, specifically regulated by a special procedure and with knowledge testing) and to avoid confusion with the general training that should be provided to all workers foreseen in the preceding paragraphs. Should also be revised in order to ensure consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law. Also to renumber the paragraph.
1)		
2) workers performing functions of authorized entities for occupational safety and health of workers;	2) workers performing functions **within authorized internal structural units for safety and health of workers or within expert entities on safety and health of workers, as well as authorized workers** for occupational safety and health of workers;	To ensure consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.

OSH draft Law provision's wording	Recommended wording	Rationale
3) …….		
4. The procedure of training and knowledge testing on safety and health of workers and requirements to the economic entities providing services in the field of training on safety and health of workers shall be set forth by the Cabinet of Ministers of Ukraine.	**6.** The procedure of training and knowledge testing on safety and health of workers **shall be set forth by the Cabinet of Ministers of Ukraine** and the requirements to the **expert entities on safety and health of workers** providing services in the field of training on safety and health of workers is set forth by law.	Should also be revised in order to ensure consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law. Also to renumber the paragraph.
5. ……	**7.** ……	To renumber the paragraph.
6. ……	**8.** ……	To renumber the paragraph.
7. ……	**9.** ……	To renumber the paragraph.
8. ……	**10.** ……	To renumber the paragraph.
9. ……	**11.** ……	To renumber the paragraph.
Article 21. Provision of information to workers		
1. The employer must provide workers and workers' representatives with updated information about:	1. The employer must provide workers and workers' representatives, **prior to commencement of work,** with updated information about:	Should be changed as proposed, for clarity and to avoid having a not numbered paragraph below.
1)……		
2)……		
3)……		
The above-mentioned information shall be provided to workers prior to commencement of work.	**To delete**	To delete this (not numbered) paragraph, which provision was included in the wording of the paragraph 1 (above).
4. The employer shall provide information to the authorized entities for safety and health of workers and the workers' representatives about:	4. The employer shall provide information to the **authorized internal structural units for safety and health of workers and expert entities on safety and health of workers, as well to authorized workers** for occupational safety and health of workers and to workers' representatives about:	To ensure consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.

OSH draft Law provision's wording	Recommended wording	Rationale
5. The employer shall provide information to the authorized entities for safety and health of workers and the workers' representatives about: admission of persons under 18 years of age, workers with disabilities or chronic diseases, as well as about pregnant workers, workers that have recently given birth or are breastfeeding.	5. The employer shall provide information to the **authorized internal structural units for safety and health of workers and expert entities on safety and health of workers, as well to authorized workers** for occupational safety and health of workers and to workers' representatives about: admission of persons under 18 years of age, workers with disabilities or chronic diseases, as well as about pregnant workers, workers that have recently given birth or are breastfeeding.	
6. Frequency of providing workers with information on safety and health of workers shall be defined by the employer themselves so that proper awareness of workers is ensured	6. Frequency of providing workers with information on safety and health of workers shall be defined by the employer, **taking into account that the information regarding the risks to which the workers are or may be exposed to at the workplaces in general and at their workstations in particular and about the preventive and protective measures to be taken have to be provided before the beginning of the work and updated as soon as changing circumstances do so advise.**	To better align with Article 6(1) of Directive 89/391/EEC.
Article 22. First aid, elimination of breakdowns, fire-fighting, and evacuation of workers		
2. To implement the above-mentioned measures the employer shall designate responsible workers who shall be required to undergo appropriate training, instruction and advanced training according to the procedure set forth by law. The number of the responsible workers shall be determined by the employer taking account of the enterprise's (production facility's) size or of specific hazards present there.	2. To implement the above-mentioned measures the employer shall: **1)** Designate responsible workers who shall be required to undergo appropriate training, instruction and advanced training according to the procedure set forth by law; **2) Ensure that** the number of the responsible workers **mentioned in the previous paragraph, their training and the equipment available to them** shall be	To better align with Articles 8(1), 8(2) and 8(3) of Directive 89/391/EEC. In addition, the Directive also foresees that the number, training and means provided to the responsible workers should take account on the size and risks of the workplaces (and not of the enterprise's production facilities). Not only because the employer might not be an enterprise (e.g., public entity, association, self-employed with employees, etc) but also because the

OSH draft Law provision's wording	Recommended wording	Rationale
3. In case of emergencies that threaten life and health of workers, the employer shall be required to: 1) inform as soon as possible the workers who are, or may be, exposed to danger of the steps to be taken for their protection; 2) ensure evacuation of the workers and persons who are in danger; 3) ensure provision of first aid; 4) allow the workers to stop work, leave the workstation/workplace, and proceed to a place of safety; 5) ensure fire-fighting and elimination of breakdowns; 6) where necessary, engage external services, in particular the emergency medical aid systems and the rescue services of the central executive authority that ensures the formulation and implementation of the state policy on civil defence; 7) ensure implementation of the measures provided for in the plans of localization and elimination of hazard consequences or in the instruction on actions in emergency at the employer's facilities.	determined by the employer taking account of the **workplace´s** size **and** the specific hazards present there. **3) As soon as possible, inform all workers who are, or may be, exposed to serious and imminent danger of the risk involved and of the steps taken or to be taken as regards protection;** 3. In case of emergencies that threaten life and health of workers, the employer shall be required to: **1)** ensure evacuation of the workers and persons who are in danger; **2)** ensure provision of first aid; **3)** allow the workers to stop work, leave the workstation/workplace, and proceed to a place of safety; **4)** ensure fire-fighting and elimination of breakdowns; **5)** where necessary, engage external services, in particular the emergency medical aid systems and the rescue services of the central executive authority that ensures the formulation and implementation of the state policy on civil defence; **6)** ensure implementation of the measures provided for in the plans of localization and elimination of hazard consequences or in the instruction on actions in emergency at the employer's facilities.	workplace might not be a production facility, but a office, a shop, a logistic center, etc. Moreover, the information to be provided on the risk involved and of the steps taken or to be taken as regards protection (that must be given to all workers who are, or may be, exposed to serious and imminent danger), foreseen in Article 8(3)(a) of the Directive 89/391/EEC, should be provided as soon as possible and, in any case, before the occurrence of any real emergency. The idea is providing information on the risks and protection measures BEFORE the emergency occurs and not just during or after it.
4. ……		
5. ……		

OSH draft Law provision's wording	Recommended wording	Rationale
6. ……		
……	**7. In the situation mentioned in the previous paragraph,** workers shall not be liable for such actions, unless they acted carelessly or there was negligence on their part.	To improve clarity and number the paragraph.
Article 23. Consultations with workers and involvement of workers in the matters of safety and health of workers		
6) designation of the authorized entities for safety and health of workers and of workers responsible for implementing the measures for first aid, fire-fighting, elimination of breakdowns and evacuation;	6) designation of the **authorized internal structural units for safety and health of workers and expert entities on safety and health of workers, as well of the authorized workers** for occupational safety and health of workers and of **the** workers responsible for implementing the measures for first aid, fire-fighting, elimination of breakdowns and evacuation;	To ensure consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
11) information concerning occupational risk management.		
……	**12)**……	To number the paragraph.
8. ……		
If the above-mentioned commission is established, it shall be formed on a parity basis involving workers' representatives and authorized entities for safety and health of workers.	**9.** If the **commission mentioned in the previous paragraph** is established, it shall be formed on a parity basis **by** workers' representatives and**, as the case may be, by workers of the authorized internal structural units for safety and health of workers, of the expert entities on safety and health of workers if applicable, and by authorized workers for occupational safety and health of workers.**	To ensure consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law. Also to improve clarity and number the paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
Article 24. Employers' rights		
5) engage expert organizations or economic entities providing services on safety and health of workers for organization of the safety and health of workers system, carrying out audit of the safety and health of workers system, workstation appraisal in terms of working conditions, development and efficiency assessment of risk elimination and minimization measures, technical inspections of work equipment, and delivery of other services on the safety and health of workers	5) **designate authorized internal structural units for the safety and health of workers, authorized workers for the safety and health of workers or, where appropriate, engage expert entities on safety and health of workers, to organize and ensure the functioning of the safety and health of workers system pursuant to Articles 14 and 15.**	To ensure consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
Article 25. Employers' obligations		
1. Employers shall be required to:	**1. Employers shall have the obligation to ensure the safety and health of workers in every aspect related to the work. For that purpose, employers shall be required to:**	**To align with the most important aspect of the EU OSH legal framework, foreseen in Articles 5(1) and 6 of Directive 89/391/EEC: the responsibility of the employer for ensuring the safety and health of workers in every aspect related to the work.**
1) ensure safe working conditions;	1) Implement **the necessary measures for the safety and health protection of workers in accordance with the general principles of prevention, laid down in Article 14(1) of this law, and to adjust the measures to take account of changing circumstances.**	**To align with the second and third most important aspects of the EU OSH legal framework, Articles 6(1) and 6(2) of Directive 89/391/EEC:** • **The obligation of the employer to take measures to protect the safety and health of the workers and adjust them to changing circumstances;** • **The obligation of the employer to follow the general principles of prevention when implementing those measures!**
6) designate an authorized entity for safety and health of workers and/or conclude civil law contracts with a legal person or an individual	**6) organize and ensure the functioning of the occupational safety and health of workers system , designating the authorized internal**	Should be changed to better align it with Articles 7(1) and 7(3) of Directive 89/391/EEC and also to ensure the necessary consistency of this sub-

OSH draft Law provision's wording	Recommended wording	Rationale
entrepreneur which provide, according to the procedure set forth by law, services on safety and health of workers	**structural units for the safety and health of workers, authorized workers for the safety and health of workers or, where appropriate, expert entities on safety and health of workers, pursuant to Articles 14 and 15;**	paragraph with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
10) carry out workstation appraisal in terms of working conditions according to legislative requirements;	10) carry out **workplace's** appraisal in terms of working conditions according to legislative requirements;	To better specify it refers to workplace appraisal and not to workstation appraisal (the appraisal of the workstations is, of course, included in the workplace appraisal).
3. Engagement by the employer of external persons and economic entities to ensure the implementation of obligations and tasks in the field of safety and health of workers shall not discharge the employer from their responsibility for ensuring the safety and health of workers in every aspect related to the work.	3. Engagement by the employer of **expert entities on safety and health of workers** to ensure the implementation of obligations and tasks in the field of safety and health of workers shall not discharge the employer from their responsibility for ensuring the safety and health of workers in every aspect related to the work.	Should be changed to ensure the necessary consistency of this paragraph with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
Article 26. Workers' rights		
6) obtain redress, according to law, for any damage and loss caused to the worker's health due to the employer's failure to ensure safe working conditions;	6) obtain redress, according to law, for any damage and loss caused to the worker's health due to the employer's failure to ensure safe **and healthy** working conditions;	Should be amended, in order to improve precision and clarity.
Article 27. Workers' obligations		
6) immediately inform the employer and/or officials and/or authorized entities for safety and health of workers of any work situation they have reasonable grounds for considering represents or may represent a serious danger to safety and health of workers and of any shortcomings in the protection arrangements	6) immediately inform the employer and/or **the authorized internal structural units for safety and health of workers, authorized workers for the safety and health of workers or, where appropriate, the expert entities on safety and health of workers** of any work situation they have reasonable grounds for considering represents or may represent a serious danger to safety and health of workers and of any shortcomings in the protection arrangements	Should be changed to better align it with Article 13(2)(d) of Directive 89/391/EEC and also to ensure the necessary consistency of this sub-paragraph with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.

OSH draft Law provision's wording	Recommended wording	Rationale
7) cooperate with the employer and/or authorized entities for safety and health of workers, for as long as may be necessary to enable any tasks or requirements imposed by the competent authorities to ensure the safety and health of workers at work to be carried out;	7) cooperate with the employer and/or **authorized internal structural units for safety and health of workers, authorized workers for the safety and health of workers or, where appropriate, the expert entities on safety and health of workers**, for as long as may be necessary to enable any tasks or requirements imposed by the competent authorities to ensure the safety and health of workers at work to be carried out;	Should be changed to ensure the necessary consistency of this sub-paragraph with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
8) cooperate with the employer and/or authorized entities for safety and health of workers, for as long as may be necessary to enable the employer to ensure safe working conditions and working environment;	**8)** cooperate**, within their field of activity,** with the employer and/or **authorized internal structural units for safety and health of workers, authorized workers for the safety and health of workers or, where appropriate, the expert entities on safety and health of workers**, for as long as may be necessary to enable the employer to ensure **that the working environment and working conditions are safe and pose no risk to safety and health**.	Should be changed, to better align with the provisions of Article 13(2)(f) of Directive 89/391/EEC. Should be also changed to renumber the subparagraph.
3. The worker's obligations listed in the first part of this Article shall not be exhaustive. Other obligations may ensue from the rules, recommendations and instructions intended to ensure safety and health of workers and established according to law and/or by the employer;	3. The worker's obligations listed in the first part of this Article shall not be exhaustive. Other obligations may **result** from the rules, recommendations and instructions intended to ensure safety and health of workers and established according to law and/or by the employer	To correct a typing mistake (maybe just present in the analyzed English version).
Article 28. Safety and health of pregnant workers, workers who have recently given birth, and workers who are breastfeeding		
3. ……		
1) carry out, by themselves or assisted by the authorized entities for safety and health of workers, assessment of occupational risks to	1) carry out, by themselves or assisted by the **authorized internal structural units for safety and health of workers, authorized workers for**	Should be changed to ensure the necessary consistency of this sub-paragraph with sub-

OSH draft Law provision's wording	Recommended wording	Rationale
safety and health of such workers as well as any possible effect on the pregnancy, unborn child, breastfeeding of such workers' children, and on safety and health of their children;	**the safety and health of workers or, where appropriate, the expert entities on safety and health of workers**, assessment of occupational risks to safety and health of such workers as well as any possible effect on the pregnancy, unborn child, breastfeeding of such workers' children, and on safety and health of their children;	paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
Article 31. The central executive authority that implements the state policy on state control of compliance with the labour legislation		
2. Main objectives of the central executive authority that implements the state policy on state control of compliance with the labour legislation shall be as follows	2. Main **functions** of the central executive authority that implements the state policy on state control of compliance with the labour legislation shall be as follows	Unless the use of the term "objectives" is a translation mistake in the English version of the text that we analyzed, the expression "objectives" should be substituted by the term "functions" or "tasks", not only to align the draft with Article 3(1) of ILO C81 and Article 6(1) of ILO C129, but also because "objectives" are not the same as "functions". The exercise of functions may lead to the achievement of objectives. The latter, in the case of the Central Authority that implements the state policy on labour, might include, for example, the improvement of the working conditions.
1) ensuring application of the legislation on safety and health of workers;	1) **to control and ensure** the application of the legislation on safety and health of workers;	Should be changed, to better align with Article 3(1)(a) of ILO Convention 81 and Article 6(1)(a) of ILO Conventions 129 and to ensure increased consistency with the control and supervision functions of the "Central executive authority that implements the state policy on state control of compliance with the labour legislation".
2) providing employers, workers, and workers' representatives with technical information and advice concerning the most efficient means of complying with legal provisions;	2) providing employers, workers **and their representatives** with technical information and advice concerning the most **effective** means of complying with legal provisions;	Should be changed, because the central executive authority that implements the state policy on state control of compliance with the labour legislation should also provide employers'

OSH draft Law provision's wording	Recommended wording	Rationale
		representatives with technical information and advice, and not just the workers' representatives. This includes not just the workers´ representatives and employer´s representatives at company/workplace level, but also at regional and state level (for example, the officials of the Trade Unions and of the Employers Organizations). Moreover, the term "efficient" should be substituted by the term "effective", because "efficiency" as to do with the relation between the inputs necessary to obtain each unit of output, whereas "effective(ness)" has to do with the degree of achievement of a intended result, which is the case. That is why the term used in ILO Conventions 81 (Article 3(1)(b)) and 129 (Article 6(1)(b)) is "effective" and not "efficient".
Article 33. Providing technical information and advice to employers and workers		
1. The central executive authority that implements the state policy on state control of compliance with the labour legislation shall ensure free provision of technical information and advice (written and verbal) as regards the most efficient ways of using the provisions of the legislation on safety and health of workers to employers, workers, workers' representatives, and economic entities providing services in the field of safety and health of workers.	1. The central executive authority that implements the state policy on state control of compliance with the labour legislation shall ensure free provision of technical information and advice (written and verbal) **on** the most **effective** ways to comply with the **legal** provisions on safety and health **to workers and their representatives, employers and their representatives, as well as to expert entities on safety and health of workers providing services in the field of safety and health of workers.**	As suggested before, the term "efficient" should be substituted by the term "effective", because "efficiency" as to do with the relation between the inputs necessary to obtain each unit of output, whereas "effective(ness)" has to do with the degree of achievement of a intended result, which is the case. That is why the term used in ILO Conventions 81 and 129 is "effective" and not "efficient". In addition and also as mentioned above, the technical information and advice should be provided not only to employers, workers, workers' representatives and economic entities

OSH draft Law provision's wording	Recommended wording	Rationale
		providing OSH services, but also to employers' representatives. Finally, it should also be changed to ensure the necessary consistency of this paragraph with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
4. ……	**3.** ……	Should be renumbered.
5. ……	**4.** ……	Should be renumbered.
6. ……	**5.** ……	Should be renumbered.
7. Based on results of the analysis of statistics on accidents and occupational diseases, inspection visits, requests for technical documentation and advice, and results of the state audit, the central executive authority that implements the state policy on state control of compliance with the labour legislation shall conduct national, sectoral and thematic awareness-raising campaigns concerning the most efficient ways of using the provisions of the legislation on safety and health of workers.	**6.** Based on results of the analysis of statistics on **occupational** accidents and occupational diseases, inspection visits, requests for technical documentation and advice, and results of the state audit**s**, the central executive authority that implements the state policy on state control of compliance with the labour legislation shall conduct national, sectoral and thematic awareness-raising campaigns concerning the most **effective** ways **of complying with legal** provisions on safety and health of workers.	As already mentioned earlier, to better align with ILO C81 and C129, regarding the terminology: most "effective" (instead of most "efficient") ways to "comply with" (instead of "using") the legal provisions. Also to use the more correct term "occupational accident", instead the term "accident", as foreseen in ILO Protocol of 2002 to the ILO C155 on OSH.
8. The employer shall have the right to request the central executive authority that implements the state policy on safety and health of workers that awareness-raising activities be carried out by labour inspectors concerning the most efficient ways of complying with the provisions of the legislation on safety and health of workers.	**7.** The employer shall have the right to request the central executive authority that implements the state policy on safety and health of workers that awareness-raising activities be carried out by labour inspectors concerning the most **effective** ways **of complying with legal** provisions on safety and health of workers.	Should be amended as suggested, for the reasons presented in the previous comment.
9. ……	**8.** ……	Should be renumbered.

OSH draft Law provision's wording	Recommended wording	Rationale
Article 34. Public information in the field of safety and health of workers		
1) legislation on safety and health of workers;	1) legislation on safety and health of **workers and other legislation which is relevant for the work of the central executive authority that implements the state policy on state control of compliance with the labour legislation;**	To better align with Article 21(a) of ILO C81.
3) employers and workplaces, which were liable to inspection, and the number of workers they employ;	3) employers and workplaces **liable to inspection and the number of workers employed therein;**	To better align with Article 21(c) of ILO C81. It is not about the employers and workplaces that **were** visited and the number of workers employed (that will result from the data on inspection visits) but, instead, regarding the employers and workplaces that are liable to inspections, **meaning the ones that could have been visited and the number of workers they employ.**
Article 35. The employer's liability for violation of the legislation on safety and health of workers		
4. Employers shall be held liable to a fine for violations of the provisions hereof in case of:	4. **Without prejudice to civil and criminal liability, where applicable, employers and, where exist, their owners, administrators and legal representatives,** shall be held liable to a fine for violations of the provisions hereof in case of:	Should be changed, in order to align with international best practices and dissuade non-compliance.
2) failure to inform workers concerning occupational safety and health of workers (Art. 21), failure to consult workers and/or workers' representatives (Art. 23) – in the amount of one minimum wage;	2) failure to inform workers concerning occupational safety and health (Art. 21) **– in the amount of one minimum wage per worker not informed;** **3)** failure to consult workers and/or workers' representatives (Art. 23) – in the amount of one minimum wage **per situation in which workers or their representatives should be consulted and were not;**	Should be separated, as these are two different infractions, and the way to calculate the applicable sanction should also be different: in the case of not informing workers, the fine should be multiplied by the number of workers not informed; in the case of lack of consultation of workers or their representatives, the fine should be multiplied by the number of situations in which that consultation should have taken place but did not occurred.

OSH draft Law provision's wording	Recommended wording	Rationale
3) ……	**4)** ……	To renumber the sub-paragraph.
4) ……	**5)** ……	To renumber the sub-paragraph.
5) allowing the worker to perform high-risk works without an authorization **or without additional insurance of the worker according hereto** (Art. 11) – in the amount equal to the lump-sum benefit paid to the family of the victim in case of the latter's death due to an occupational accident, as per the Law of Ukraine "On compulsory state social insurance), for every such worker;	**6)** allowing the worker to perform high-risk works without an authorization (Art. 11) – in the amount equal to the lump-sum benefit paid to the family of the victim in case of the latter's death due to an occupational accident, as per the Law of Ukraine "On compulsory state social insurance), for every such worker; **Delete the expression "or without additional insurance of the worker according hereto"**	The expression **"or without additional insurance of the worker according hereto"** should be deleted, in accordance with our recommendation to Article 11, that the performance of high-risk works should only depend on an authorization and that this authorization should not be substituted by an insurance. Should also be changed to renumber the sub-paragraph.
6) ……	**7)** ……	To renumber the sub-paragraph.
7) ……	**8)** ……	To renumber the sub-paragraph.
8) failure to provide first aid and/or to ensure evacuation of workers who were in danger due to a breakdown (third part of Art. 22) – in the amount of three minimum wages for every such worker;	**9)** failure to **comply with the provisions on first aid, elimination of breakdowns, fire-fighting, and evacuation of workers, laid down in Article 22** – in the amount of three minimum wages for every such worker**;**	Should be changed, considered also several other important infractions to this article, which may include: the absence of the planning and organization of the emergencies, the non-designation of the workers responsible, the non-provision of training and means to those workers, etc. Also to renumber the sub-paragraph.
9) failure to define (designate) an authorized entity for safety and health of workers (Art. 15) – in the amount of five minimum wages;	**10)** failure to **organize and ensure the proper functioning of the occupational safety and health of workers system pursuant to Article 14** – in the amount of five minimum wages**;**	Should be changed, not only to include other infractions concerning the function of the OSH services foreseen in Article 15, but also to properly sanction the eventual violations of the legal provisions of Article 14, concerning the organization and functioning of the occupational safety and health of workers system. Also to renumber the sub-paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
	11) failure to **comply with the provisions regarding the designation and proper operation of the authorized entities for safety and health of workers pursuant to Article 15** – in the amount of five minimum wages**;**	Should be changed, considered also several other important infractions to this article, which may include: the absence of the planning and organization of the emergencies, the non-designation of the workers responsible, the non-provision of training and means to those workers, etc. Also to renumber the sub-paragraph.
10) ……	**12)** ……	To renumber the sub-paragraph.
11) failure to investigate an accident or an occupational disease (third part of Art. 6) – in the amount of 10 minimum wages for every worker concerning whom investigation was not carried out	**13)** failure to investigate **and keep records of** an **occupational** accident or an occupational disease (third part of Art. 6) – in the amount of 10 minimum wages for every worker concerning whom investigation was not carried out **or records were not kept**;	To ensure also the sanction of the non-keeping of records of occupational accidents and diseases, as well as to specify that the mentioned "accidents" are referred to "occupational accidents". Also to renumber the sub-paragraph.
12) ……	**14)** ……	To renumber the sub-paragraph.
13) ……	**15)** ……	To renumber the sub-paragraph.
14) ……	**16)** ……	To renumber the sub-paragraph.
15) ……	**17)** ……	To renumber the sub-paragraph.
16) violating other provisions hereof – in the amount of half the minimum wage for every worker whose right to protection is infringed due to such a violation.	**19)** …… **The infringements that are foreseen on this residual provision should be kept to a minimum! In addition, this residual provision, foreseeing a fine of half a minimum wage for any other infringement not specifically foreseen in this law is inconsistent with the sub-paragraph 8) of the second part of Article 268 of the Code of Labor Laws of Ukraine, according to which "the violation of requirements of the labour legislation other than those provided by paragraphs 1-7 of this part, in the amount of a minimum wage for every such violation".** **Moreover, the different violations and corresponding sanctions should be, as much as possible, specified in specific legal provisions and not grouped in a residual provision.** **In addition, the more serious violations should be individualized and its sanctioning should be foreseen in specific legal provisions.** **As such, this Article 35, on the employer's liability for violation of the legislation on safety and health of workers, in addition to the ones already prescribed, should specially foresee specific and**	

OSH draft Law provision's wording	Recommended wording	Rationale
	individualized infringements and corresponding sanctions for the violation of some other very important legal provisions concerning, *inter alia*: **1. Then protection of genetic heritage (Article 13);** **2. The employers' obligations to assess the occupational risks to which the workers are or may be exposed at work and to implement the preventive and protective measures on the basis of the risk assessment and following the general principles of prevention (Article 16 - Occupational risk management and 25 - Employers' obligations);** **3. Safety and health of pregnant workers, workers who have recently given birth, and workers who are breastfeeding (Article 28);** **4. Safety and health of workers under 18 years of age (Article 29);** **5. Safety and health of workers with disabilities (Article 30)** **In addition:** **6. The amount of fines should also be based on the size of the employers;** **7. The amount of fine should also include the financial gain of the employer with the commitment of the infraction, in order to dissuade non-compliance;** **8. It should also be introduced non-monetary accessory sanctions, more directed to the vital interests of the employers.** Finally, also to renumber the sub-paragraph.	
The fines mentioned in this paragraph shall be imposed in case of failure to comply with the labour inspector's order concerning elimination of such violations drawn up on the basis of the inspection visit findings.	**This paragraph should be deleted because:** **1. It takes out from the labour inspection activity and from the infringement proceedings the effect of general prevention, i.e., the fact that the subjects of legal provisions tend to comply with them in order to avoid being sanctioned. This legal provision is likely to disincentive employers to comply with OSH legislation from the outset, because they know that if their infractions are detected, they will always have the opportunity to correct them without being sanctioned. In fact, instead of complying with the legal provisions, they will be waiting for the labour inspectors to detect them and, if and when they do detect them, they will have the time to correct the infringements without any penalization.** **2. This provision contradicts:** **a. Article 17(2) of ILO Convention 81 and Article 22(2) of ILO Convention 129, according to which "It shall be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending proceedings";** **b. 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";**	

OSH draft Law provision's wording	Recommended wording	Rationale
	c. 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"; and **d. Article 4(2) of EU Directive 89/391/EEC, according to which the states "shall ensure adequate controls and supervision".**	
8.	**TO DELETE**	To delete the paragraph, as it has no content.
Article 36. Expert organizations liability insurance	**Article 36.** Expert **entities** liability insurance	It should also be changed to ensure the necessary consistency of this title with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
1. When concluding a contract for services, expert organizations shall be required to maintain insurance against the losses likely to be caused to a recipient of their services due to improper quality of such services.	1. When concluding a contract for services, expert **entities on safety and health of workers** shall be required to maintain insurance against the losses likely to be caused to a recipient of their services due to improper quality of such services.	The term "expert organizations" should be substituted by the term "expert entities on safety and health of workers" in order to ensure the necessary consistency with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law.
2. Liability of expert organizations for improper quality of services delivered shall be defined by an agreement concluded with a recipient of their services.	2. Liability of expert **entities on safety and health of workers** for improper quality of services delivered shall be defined by an agreement concluded with a recipient of their services.	
3. The established fact of provision of services of improper quality by an expert organization shall constitute a ground for revision of the expert organization's competence by the central executive authority that ensures the formulation and implementation of the state policy on safety and health of workers as suggested by the central executive authority that implements the state policy on state control of compliance with the labour legislation.	3. The established fact of provision of services of improper quality by an expert **entity on safety and health of workers** shall constitute a ground for revision of the expert **entity's** competence by the central executive authority that ensures the formulation and implementation of the state policy on safety and health of workers as suggested by the central executive authority that implements the state policy on state control of compliance with the labour legislation.	
4. In case of damage to a worker's life and health that occurred, inter alia, because of improper	4. In case of damage to a worker's life and health that occurred, inter alia, because of improper	

OSH draft Law provision's wording	Recommended wording	Rationale
quality of the services provided by expert organizations, the expert organizations shall be financially liable pursuant to a court decision.	quality of the services provided by expert **entities on safety and health of workers**, the **concerned expert entities on safety and health of workers** shall be financially liable pursuant to a court decision.	
5. Engagement of expert organization whose activities caused damage to a worker's life and health shall not exempt the employer from liability.	5. Engagement of expert **entities on safety and health of workers** whose activities caused damage to a worker's life and health shall not exempt the employer from liability.	
SECTION VIII. EXPERT ORGANIZATIONS	**SECTION VIII.** EXPERT **ENTITIES ON SAFETY AND HEALTH OF WORKERS**	**This section should be regulated through a by-law, such as a Ministry Order or a CMU Decree, and not in the present law.** Nevertheless, and if it chosen to regulated here, the title of the section as well as the title of Article 37 should be changed for clarity and also to substitute "organizations" by "entities", in order to allow that natural persons can also apply and be appointed as expert entities, if they are competent, have the necessary means and meet the necessary requirements [as already point out in the comments to sub-paragraph 7) of paragraph 1 of Article 1]. Also to ensure the necessary consistency with paragraph 40) of Article 1 and Article 15.
Article 37. Requirements to expert organizations	Article 37. Requirements **of** expert **entities**	
1. Expert organizations may be appointed for performing, as third parties, certain tasks as regards carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works, provided that they:	Expert **entities on safety and health of workers** may be appointed for **the provision**, as third parties, **of one or more of the services enumerated in sub-paragraph 7) of paragraph 1 of Article 1,** provided that **they meet the following requirements to expert entities:**	To substitute "Expert organizations" by "Expert entities on safety and health of workers", allowing also natural persons (that are competent, have means and meet the necessary requirements) to apply and being appointed as expert entities. Also for clarity, avoiding the repetition of the services to which provision the expert entity is appointed and renumbering some paragraphs.

OSH draft Law provision's wording	Recommended wording	Rationale
1) meet the following requirements to expert organizations:		
they are resident legal persons regardless of their ownership form;	**1.** they are resident **natural or** legal persons regardless of their ownership form;	To substitute "they are resident legal persons" for "they are resident natural or legal persons", allowing also natural persons (that are competent, have means and meet the necessary requirements) to apply and being appointed as expert entities. Also to number the paragraph
every worker from among at least a half of their regular staff responsible for performance of tasks has at least one year of overall experience in performance of works on carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works;	**2.** at least half of their regular staff has at least one year of overall experience **in the provision of those services;**	For clarity, avoiding the repetition of the services to which provision the expert entity is appointed and numbering the paragraph.
……	**3.** ……	To number the paragraph.
……	**4.** ……	To number the paragraph.
2) meet the special requirements to the appointed expert organizations set forth by the Cabinet of Ministers of Ukraine.	**5.** meet the special requirements to the appointed **expert entities on safety and health of workers** set forth by the Cabinet of Ministers of Ukraine.	To substitute "expert organizations" by "expert entities on safety and health of workers", allowing also natural persons (that are competent, have means and meet the necessary requirements) to apply and being appointed as expert entities.
Article 38. Involvement of subcontractors and subsidiaries by the expert organizations in performance of works on carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert	Article 38. **Subcontractors**	For clarity and simplicity.

OSH draft Law provision's wording	Recommended wording	Rationale
examination of the work equipment and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works		
1. If an expert organization involves a subcontractor or the organization's subsidiary in performance of works related to carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment, and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works, it must ensure that the said subcontractor or subsidiary meets the special requirements to expert organizations and notify the appointing authority of the involvement.	1. If an expert **entity on safety and health of workers** involves a subcontractor or an **entity's** subsidiary **in the provision of the services enumerated in sub-paragraph 7) of paragraph 1 of Article 1,** it must ensure that the said subcontractor or subsidiary meets the special requirements to expert **entities on safety and health of workers** and notify the appointing authority of **their** involvement.	To substitute "expert organization(s)" by "expert entity(ies) on safety and health of workers", allowing natural persons (that are competent, have means and meet the necessary requirements) to apply for being expert entities. Also for clarity and simplicity, avoiding the repetition of the services to which provision the expert entity is appointed
2. The appointed (acknowledged) expert organizations shall bear full responsibility for works performed by subcontractors or subsidiaries regardless of their being residents or non-residents of Ukraine.	2. The appointed (acknowledged) expert **entity on safety and health of workers** shall bear full responsibility for works performed by subcontractors or subsidiaries regardless of their being residents or non-residents of Ukraine.	To substitute "expert organization" by "expert entity on safety and health of workers", allowing natural persons (that are competent, have means and meet the necessary requirements) to apply for being expert entities.
3. A subcontractor or a subsidiary may be involved in performance of works on carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment, and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works only by the customer's consent.	3. A subcontractor or a subsidiary may be involved in performance of works **enumerated in sub-paragraph 7) of paragraph 1 of Article 1,** only by the **customer's consent.** **THE DELETION OF THIS PARAGRAPH SHOULD BE CONSIDERED**	For clarity and simplicity, avoiding the repetition of the services to which provision the expert entity is appointed. In addition, it should be clarified who is the "customer" and, depending on it, consider to delete the paragraph: • If the "customer" is the employer whose working conditions or work equipment is being assessed, this paragraph should be deleted, because the employer should not be

OSH draft Law provision's wording	Recommended wording	Rationale
		able to oppose to the performance of the activities of the subcontractor on behalf of the expert organization, as the subcontractor has also to meet the requirements of the expert organizations, unless the engagement of an expert organization is voluntary, which is not the case. As such, this paragraph should be deleted. • If the "customer" is the expert organization, it is obvious that the subcontractor cannot perform activities on behalf of the expert organization without the consent of the latter (even because it wouldn't be paid for it). Therefore, this paragraph should be deleted. • If the "customer" is someone else, it should be clarified.
4. Subcontractors and subsidiaries being non-residents of Ukraine must meet the special requirements to expert organizations to the extent that such requirements may be applied to non-residents of Ukraine.	4. Subcontractors and subsidiaries being non-residents of Ukraine must meet the special requirements to expert **entities on safety and health of workers** to the extent that such requirements may be applied to non-residents of Ukraine.	To substitute "expert organizations" by "expert entities on safety and health of workers", allowing natural persons (that are competent, have means and meet the necessary requirements) to apply for being expert entities.
Article 39. Issuing, or denying issuance of, a certificate of appointment of an expert organization for performance, as a third party, of certain tasks as regards carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works, and extending the scope of appointment	**Article 39. Certificate of appointment - issuance, denial and extension**	For clarity and simplicity.

OSH draft Law provision's wording	Recommended wording	Rationale
1. Appointment shall be effected by means of issuance by the appointing authority of a certificate of appointment of the expert organization for carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment, and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works (hereinafter referred to as the certificate of appointment).	1. Appointment shall be effected by means of issuance by the appointing authority of a certificate of appointment of the expert **entity on safety and health of workers** for **the provision of the services enumerated in sub-paragraph 7) of paragraph 1 of Article 1,** (hereinafter referred to as the certificate of appointment).	To substitute "expert organization" by "expert entity on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) can apply and being expert entities. In addition, for clarity, avoiding the repetition of the services to which provision the expert entity is appointed.
2. The candidate for appointment shall submit an application for appointment according to the established form to the appointing authority. The following shall be attached to the application for appointment:	2. The candidate for appointment shall submit an application for appointment according to the established form to the appointing authority, **which should be accompanied by the following exhaustive list of documents:**	For clarity and to number all paragraphs. Also to substitute the non-numbered paragraph after paragraph 2 and the non-numbered paragraph between sub-paragraph 6) and paragraph 3.
1) description of the scope of appointment depending on the purpose of appointment concerning performance of certain tasks as regards of carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment, and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works, concerning which the candidate for appointment declares its competence (on paper and in electronic format). The description shall be drawn up according to the established form and signed by the candidate for appointment. The description shall contain activity types;	1) description of the scope of appointment, **considering the services enumerated in sub-paragraph 7) of paragraph 1 of Article 1 that applicant wants to provide and regarding which s/he** declares its competence (on paper and in electronic format). The description, **which must contain the types of services to which the applicant wants to be appointed,** shall be drawn up according to the established form and signed by the candidate for appointment.	For clarity, simplifying wording and avoiding the repetition of the services to which provision the expert entity is requiring the appointment.

OSH draft Law provision's wording	Recommended wording	Rationale
2) copy of the accreditation certificate that proves the candidate's compliance with the special requirements to expert organizations. The scope of accreditation of the candidate for appointment must cover the activity type concerning the carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment, and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works, concerning which the candidate for appointment declares its competence;	2) copy of the accreditation certificate that proves the candidate's compliance with the special requirements to expert organizations. The scope of accreditation of the candidate for appointment must cover the **services enumerated in sub-paragraph 7) of paragraph 1 of Article 1**, **regarding** which the candidate for appointment declares its competence;	For clarity, avoiding the repetition of the services to which provision the expert entity is requiring the appointment.
3) reference on overall performance experience of every worker from among regular staff responsible for performance of tasks has at least one year of overall experience in performance of works on carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works, during recent three years, signed by the candidate for appointment;	3) reference on overall performance experience of every worker from among regular staff responsible for performance of tasks has at least one year of overall experience in performance of the works **enumerated in sub-paragraph 7) of paragraph 1 of Article 1**, during recent three years, signed by the candidate for appointment;	For clarity, avoiding the repetition of the services to which provision the expert entity is requiring the appointment.
4) data on the qualification of the expert organization staff signed by the candidate for appointment;	4) data on the qualification of the expert **entity on safety and health of workers** staff signed by the candidate for appointment;	To substitute "expert organization" by "expert entity on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) can apply and being appointed expert entities.
5) ……		

OSH draft Law provision's wording	Recommended wording	Rationale
6) copy of a third-party insurance agreement for the period of the expert organization's activities, certified by the candidate for appointment.	6) copy of a third-party insurance agreement for the period of **the activities** of the expert **entity on safety and health of workers**, certified by the candidate for appointment.	To substitute "expert organization" by "expert entity on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) can apply and being appointed expert entities.
The list of documents to be attached to the application for appointment (acknowledgement) shall be exhaustive.	**To be deleted**	Integrated in the text of the paragraph 2 (above).
3. ……		
……	**1)** ……	To number the sub-paragraph.
……	**2)** ……	To number the sub-paragraph.
……	**3)** ……	To number the sub-paragraph.
4. ……		
5. The appointing authority shall assign identification numbers to expert organizations.	5. The appointing authority shall assign identification numbers to expert **entities on safety and health of workers, according with the following:**	To substitute "expert organizations" by "expert entities on safety and health of workers", allowing natural persons (that are competent, have means and meet the necessary requirements) to apply for being expert entities. Also to simplify and improve clarity, avoiding the repetition of the services to which provision the expert entity is appointed and through the numbering of respective sub-paragraphs.
Each expert organization shall be assigned only one identification number irrespective of whether the expert organization is appointed to undertake certain activities for carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works.	**1)** Each expert **entity** shall be assigned only one identification number irrespective **of the number or nature of the services to which provision the expert entity is appointed.**	
The identification numbers assigned to expert organizations shall be mentioned in the lists of expert organizations placed at the official website of the central executive authority that	**2)** The identification numbers assigned to expert **entities on safety and health of workers** shall be mentioned in the lists of expert **entities on safety and health of workers** placed at the official	

OSH draft Law provision's wording	Recommended wording	Rationale
implements the state policy on safety and health of workers.	website of the central executive authority that implements the state policy on safety and health of workers.	
6. …….		
1) the expert organization's name and location as well as its identification code from the Uniform State Register of Enterprises and Organizations of Ukraine;	1) the name, location and identification code from the Uniform State Register of Enterprises and Organizations of Ukraine of the expert **entity on safety and health of workers or, where the latter is a natural person, its name, domicile or place of business, and identification number;**	To substitute "expert organization" by "expert entity on safety and health of workers", allowing natural persons (that are competent, have means and meet the necessary requirements) to apply for being expert entities. Also to accommodate the different data to be provided by appointed expert entities which are natural persons.
2) the expert organization's identification number;	2) the identification number of the expert **entity on safety and health of workers**;	To substitute "expert organization" by "expert entity on safety and health of workers", allowing natural persons (that are competent, have means and meet the necessary requirements) to apply for being expert entities.
3) the activity type according to which the expert organization is appointed.	3) the **services to which provision** the expert **entity on safety and health of workers** is appointed.	
8. …….		
4) based on results of assessment of the candidate for appointment, it is found that the candidate performs, without appointment, tasks as regards carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works	4) based on results of assessment of the candidate for appointment, it is found that the candidate performs, without appointment, **the activities enumerated in sub-paragraph 7) of paragraph 1 of Article 1**;	To simplify and improve clarity, avoiding the repetition of the services to provision of which the expert entity is appointed.
6) the candidate for appointment does not meet the requirements to expert organizations.	6) the candidate for appointment does not meet the requirements to expert **entities on safety and health of workers**.	To substitute "expert organizations" by "expert entities on safety and health of workers", allowing natural persons (that are competent, have means

OSH draft Law provision's wording	Recommended wording	Rationale
		and meet the necessary requirements) to apply for being expert entities.
……	**9.** ……	To number the paragraph
……	**10.** ……	To number the paragraph
……	**11.** ……	To number the paragraph
9. The scope of appointment shall be extended to another activity type according to the procedure and within the time limits established by this Article for issuance or denial of issuance of a certificate of appointment, subject to the following particularities:	**12.** The scope of appointment shall be extended to another activity **enumerated in sub-paragraph 7) of paragraph 1 of Article 1** according to the procedure and within the time limits established by this Article for issuance or denial of issuance of a certificate of appointment, subject to the following particularities:	To simplify and improve clarity, avoiding the repetition of the services to provision of which the expert entity is appointed and numbering the paragraph.
……	**1)** the expert **entity on safety and health of workers** shall submit an application for extension of the scope of appointment according to the established form to the appointing authority;	Should be amended to substitute "expert organization" by "expert entity on safety and health of workers", allowing natural persons (that are competent, have means and meet the necessary requirements) to apply for being expert entities and to number the sub-paragraph.
……	**2)** ……	To number the sub-paragraph.
……	**3)** ……	To number the sub-paragraph.
……	**4)** ……	To number the sub-paragraph.
……	**5)** ……	To number the sub-paragraph.
10. Expert organizations must refer to the appointment only concerning the activity types within the limits of their scope of appointment.	**13**. Expert **entities on safety and health of workers** must refer to the appointment only concerning the activity types within the limits of their scope of appointment.	To substitute "expert organizations" by "expert entities on safety and health of workers", allowing natural persons (that are competent, have means and meet the necessary requirements) to apply and to be appointed as expert entities. Also do renumber the paragraph.
Article 40. Suspending or renewing the certificate of appointment, reducing the scope of	**Certificate of appointment - suspension, renewal, scope reduction and cancellation**	For clarity and simplicity.

OSH draft Law provision's wording	Recommended wording	Rationale
appointment, or cancelling the certificate of appointment		
1. If, based on results of a scheduled or unscheduled inspection of an expert organization, it is found or confirmed, according to information obtained earlier, that the expert organization fails to meet the requirements to expert organizations or fails to meet its obligations, the appointing authority shall file a claim to an administrative court to apply a measure of response in the form of:	1. If, based on results of a scheduled or unscheduled inspection of an expert **entity on safety and health of workers**, it is found or confirmed, according to information obtained earlier, that the expert organization fails to meet the requirements to expert **entities on safety and health of workers** or fails to meet its obligations, the appointing authority shall file a claim to an administrative court to apply a measure of response in the form of:	To substitute "expert organization(s)" by "expert entity(ies) on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities. .
1) suspending the effect of the certificate of appointment within the entire scope of appointment or in some part related to an activity within the scope of appointment – if it possible for the expert organization to eliminate the detected incompliance or to ensure meeting its obligations;	1) suspending the effect of the certificate of appointment within the entire scope of appointment or in some part related to an activity within the scope of appointment – if it possible for the expert **entity on safety and health of workers** to eliminate the detected incompliance or to ensure meeting its obligations;	
2) reducing the scope of appointment – if the detected fact of incompliance or failure to meet obligations concerns an activity within the scope of appointment and if it is not possible for the expert organization to eliminate the detected incompliance or to ensure meeting its obligations;	2) reducing the scope of appointment – if the detected fact of incompliance or failure to meet obligations concerns an activity within the scope of appointment and if it is not possible for the expert **entity on safety and health of workers** to eliminate the detected incompliance or to ensure meeting its obligations;	
3) cancelling the certificate of appointment – if the detected fact of incompliance or failure to meet obligations concerns the entire scope of appointment and if it is not possible for the expert organization to eliminate the detected	3) cancelling the certificate of appointment – if the detected fact of incompliance or failure to meet obligations concerns the entire scope of appointment and if it is not possible for the expert **entity on safety and health of workers** to	

OSH draft Law provision's wording	Recommended wording	Rationale
incompliance or to ensure meeting its obligations.	eliminate the detected incompliance or to ensure meeting its obligations.	
2. ……		
1) it is found that the expert organization provided inaccurate information (except technical errors) in its application for appointment or for extension of the scope of appointment and in the documents attached thereto, to which effect the official of the appointing authority shall draw up a respective report;	1) it is found that the expert **entity on safety and health of workers** provided inaccurate information (except technical errors) in its application for appointment or for extension of the scope of appointment and in the documents attached thereto, to which effect the official of the appointing authority shall draw up a respective report;	To substitute "expert organization(s)" by "expert entity(ies) on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities.
2) the expert organization refuses to admit officials of the appointing authority and/or specialists involved according to Art. 42(4) hereof, to carry out its scheduled or unscheduled inspection, on the grounds not provided for by law, to which effect the officials carrying out the inspection shall draw up a report;	2) the expert **entity on safety and health of workers** refuses to admit officials of the appointing authority and/or specialists involved according to Art. 42(4) hereof, to carry out its scheduled or unscheduled inspection, on the grounds not provided for by law, to which effect the officials carrying out the inspection shall draw up a report;	
3) it is found that the expert organization undertakes an activity concerning the entire scope of appointment or some types of work within the scope of appointment concerning which the effect of the certificate of appointment was suspended according to paragraph 1 of the first part or to the third part of this Article, to which effect the official of the appointing authority shall draw up a respective report;	3) it is found that the expert **entity on safety and health of workers** undertakes an activity concerning the entire scope of appointment or some types of work within the scope of appointment concerning which the effect of the certificate of appointment was suspended according to paragraph 1 of the first part or to the third part of this Article, to which effect the official of the appointing authority shall draw up a respective report;	
4) it is found that the expert organization performs, outside its scope of appointment, some works that may be performed by expert	4) it is found that the expert **entity on safety and health of workers** performs, outside its scope of appointment, some works that may be	

OSH draft Law provision's wording	Recommended wording	Rationale
organizations subject to appointment, to which effect the official of the appointing authority shall draw up a respective report.	performed by expert **entity on safety and health of workers** subject to appointment, to which effect the official of the appointing authority shall draw up a respective report.	
3. ……		
1) the expert organization approaches for that purpose of its free will with an appropriate application according to the established form;	1) the expert **entity on safety and health of workers** approaches for that purpose of its free will with an appropriate application according to the established form;	To substitute "expert organization(s)" by "expert entity(ies) on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities.
2) the national accreditation authority of Ukraine provides a copy of its decision on temporary suspension of the accreditation certificate, reduction of the scope of accreditation (if the excluded part of the expert organization's scope of accreditation covers some types of work within its scope of appointment), or cancellation of the accreditation certificate, respectively, of the expert organization.	2) the national accreditation authority of Ukraine provides a copy of its decision on temporary suspension of the accreditation certificate, reduction of the scope of accreditation (if the excluded part of the expert **entity's** scope of accreditation covers some types of work within its scope of appointment), or cancellation of the accreditation certificate, respectively, of the expert **entity on safety and health of workers**.	
4. ……		
1) based on results of an unscheduled inspection carried out pursuant to the expert organization's request, it is found that the organization complies with the requirements to expert organizations or meets its obligations as regards the entire scope of appointment or some types of work within the scope of appointment concerning which the certificate of appointment was suspended pursuant to paragraph 1 of the third part of this Article;	1) based on results of an unscheduled inspection carried out pursuant to the expert **entity's** request, it is found that the organization complies with the requirements to expert **entities on safety and health of workers** or meets its obligations as regards the entire scope of appointment or some types of work within the scope of appointment concerning which the certificate of appointment was suspended pursuant to paragraph 1 of the third part of this Article;	To substitute "expert organization(s)" by "expert entity(ies) on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities.

OSH draft Law provision's wording	Recommended wording	Rationale
2) the national accreditation authority of Ukraine provides a copy of its decision on renewal of the expert organization's accreditation certificate.	2) the national accreditation authority of Ukraine provides a copy of its decision on renewal **of the accreditation certificate of the expert entity on safety and health of workers**.	
5. ……		
1) the national accreditation authority of Ukraine provides a copy of its decision on limitation of the organization's scope of accreditation (if the excluded part of the expert organization's scope of accreditation covers the entire scope of its appointment);	1) the national accreditation authority of Ukraine provides a copy of its decision on limitation of the scope of accreditation **of the expert entity on safety and health of workers** (if the excluded part of the expert **entity**'s scope of accreditation covers the entire scope of its appointment);	To substitute "expert organization(s)" by "expert entity(ies) on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities.
2) the accreditation certificate's term of validity expires unless the expert organization submits to the appointing authority, within one month from the expiration date, a copy of the new accreditation certificate according to which the expert organization's scope of accreditation covers the entire scope of its appointment;	2) the accreditation certificate's term of validity expires unless the expert **entity on safety and health of workers** submits to the appointing authority, within one month from the expiration date, a copy of the new accreditation certificate according to which the expert **entity's** scope of accreditation covers the entire scope of its appointment;	
3) the appointed authority is terminated by means of merger, take-over, division, conversion or liquidation.	3) the appointed **entity on safety and health of workers** is terminated by means of merger, take-over, division, conversion or liquidation.	
6. ……		
If a relevant court decision takes effect, the appointing authority shall issue an order on suspension of the certificate of appointment, cancellation of the certificate of appointment or reduction of the scope of appointment within the time limit set by law to comply with court decisions. The certificate of appointment shall	**7.** If a relevant court decision takes effect, the appointing authority shall issue an order on suspension of the certificate of appointment, cancellation of the certificate of appointment or reduction of the scope of appointment within the time limit set by law to comply with court decisions.	Should be amended, to improve clarity and simplicity and to number the paragraphs.

OSH draft Law provision's wording	Recommended wording	Rationale
be deemed cancelled, its effect suspended, and its scope of appointment reduced from the day on which the administrative court's relevant decision comes into force.	**8. In the case foreseen in the previous paragraph,** the certificate of appointment shall be deemed cancelled, its effect suspended, and its scope of appointment reduced from the day on which the administrative court's relevant decision comes into force.	
Simultaneously with issuance of an order on reduction of the scope of appointment, the appointing authority shall issue the expert organization the certificate of appointment with amendments concerning reduction of its scope of appointment.	**9.** Simultaneously with issuance of an order on reduction of the scope of appointment, the appointing authority shall issue **the certificate of appointment** of the expert **entity on safety and health of workers** with amendments concerning reduction of its scope of appointment.	Should be amended to improve clarity, to number the paragraph and to substitute "expert organization" by "expert entity on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities.
6. ……		
7. ……	**10.** ……	To number the paragraph.
1) limitation of the scope of accreditation, temporary suspension or renewal or cancellation of accreditation certificates of expert organizations, providing a copy of respective decisions – no later than on the working day following the day on which the decisions are made;	1) **the** limitation of the scope of accreditation, temporary suspension or renewal or cancellation of accreditation certificates of expert **entities on safety and health of workers**, providing a copy of respective decisions – no later than on the working day following the day on which the decisions are made;	To substitute "expert organizations" by "expert entities on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities.
2) on expiration of accreditation certificates of expert organizations, providing information on submission of applications for accreditation by such expert organizations or receipt of new accreditation certificate thereby for appointment purposes – no later than one month prior to the day of expiration of respective accreditation certificates.	2) **the** expiration of accreditation certificates of expert **entities on safety and health of workers**, providing information on submission of applications for accreditation by such expert **entities on safety and health of workers** or receipt of new accreditation certificate thereby for appointment purposes – no later than one month prior to the day of expiration of respective accreditation certificates.	

OSH draft Law provision's wording	Recommended wording	Rationale
Article 41. Legal consequences of reduction of the scope of appointment, suspension or cancellation of the certificate of appointment		
1. In case of reduction of the scope of appointment, suspension or cancellation of the certificate of appointment, respective expert organizations shall stop performing the tasks within the entire scope of appointment or its part concerning which a court decision is made or an order is issued on reduction of the scope of appointment, suspension or cancellation of the certificate of appointment.	1. In case of reduction of the scope of appointment, suspension or cancellation of the certificate of appointment, respective expert **entities on safety and health of workers** shall stop performing the **activities** within the entire scope of appointment or its part concerning which a court decision is made or an order is issued on reduction of the scope of appointment, suspension or cancellation of the certificate of appointment.	To substitute "expert organizations" by "expert entities on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities.
2. In case of reduction of the scope of appointment, suspension or cancellation of the certificate of appointment, the documents issued by the respective expert organizations shall remain valid unless otherwise provided for by law.	2. In case of reduction of the scope of appointment, suspension or cancellation of the certificate of appointment, the documents issued by the respective expert **entities on safety and health of workers** shall remain valid unless otherwise provided for by law.	
Article 42. Organization of appointment activities		
1. ……..		
ensure absence of a conflict of interests with expert organizations;	**1)** ensure absence of a conflict of interests with expert **entities on safety and health of workers**;	To substitute "expert organizations" by "expert entities on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities and to number the sub-paragraph.
……	**2)** ……	To number the sub-paragraph.
ensure that every decision concerning expert organizations is made by competent persons other than those who assessed that body;	**3)** ensure that every decision concerning expert **entities on safety and health of workers** is made	To substitute "expert organizations" by "expert entities on safety and health of workers", allowing that natural persons (that are competent, have

OSH draft Law provision's wording	Recommended wording	Rationale
	by competent persons other than those who assessed that body	means and meet the necessary requirements) may apply and may be appointed as expert entities and to number the sub-paragraph.
……	**4)** ……	To number the sub-paragraph.
……	**5)** ……	To number the sub-paragraph.
2. ……..		
analyzing the information provided to the appointing authority by expert organizations according to the first and fourth parts of Article 40;	**1)** analyzing the information provided to the appointing authority by expert **entities on safety and health of workers** according to the first and fourth parts of Article 4;	To substitute "expert organizations" by "expert entities on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities and to number the sub-paragraph.
analyzing the documentarily confirmed information received by the appointing authority from natural and legal persons which indicates that the expert organization's fails to comply with the requirements to expert organizations or fails to meet its obligations;	**2)** analyzing the documentarily confirmed information received by the appointing authority from natural and legal persons which indicates that the expert **entities on safety and health of workers** fail to comply with the requirements to expert **entities on safety and health of workers** or fail to meet its obligations;	
carrying out scheduled and unscheduled inspections of the appointed authorities according to the Law of Ukraine "On the Basic Principles of State Supervision (Control) in Economic Activities" subject to the particularities specified hereby.	**3)** carrying out scheduled and unscheduled inspections of the appointed authorities according to the Law; **To delete "Law of Ukraine "On the Basic Principles of State Supervision (Control) in Economic Activities" subject to the particularities specified hereby."**	Should be amended, to delete the specification of the concrete law, as the law governing the inspection visits can change, as well as to number the sub-paragraph.
Scheduled inspections of expert organizations shall be carried out according to annual plans with the frequency determined according to the requirements of the Law of Ukraine "On the Basic Principles of State Supervision (Control) in Economic Activities".	**4)** Scheduled inspections of expert **entities on safety and health of workers** shall be carried out according to annual plans with the frequency determined according to the requirements of the Law;	Should be amended, to substitute "expert organizations" by "expert entities on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities and to number the sub-paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
	To delete "Law of Ukraine "On the Basic Principles of State Supervision (Control) in Economic Activities" subject to the particularities specified hereby."	Should also be changed, to delete the specification of the concrete law, as the law governing the inspection visits can change.
3. ……..		
freely visit, subject to production of an official ID card and a certificate (referral) for assessment or monitoring, candidates for appointment or expert organizations;	**1)** freely visit, subject to production of an official ID card and a certificate (referral) for assessment or monitoring, candidates for appointment or expert **entities on safety and health of workers**;	Should be changed, to substitute "expert organizations" by "expert entities on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities and to number the sub-paragraph.
demand documents and materials necessary for assessment or monitoring from candidates for appointment or expert organizations, and obtain copies of such documents and materials;	**2)** demand documents and materials necessary for assessment or monitoring from candidates for appointment or expert **entities on safety and health of workers**, and obtain copies of such documents and materials;	
demand provision of oral or written explanations from officials of candidates for appointment or expert organizations, within the time limit agreed upon therewith, on the matters arising during assessment or monitoring.	**3)** demand provision of oral or written explanations from officials of candidates for appointment or expert **entities on safety and health of workers**, within the time limit agreed upon therewith, on the matters arising during assessment or monitoring;	
The appointing authority officials assessing candidates for appointment or carrying out monitoring of expert organizations shall be required to not disclose any confidential information that came to their knowledge in connection with the assessment or monitoring, and not use such information in their personal interests or in the interests of third parties, except in cases specified by law. The officials guilty of violation of the above-mentioned obligation shall be held liable according to law.	**4.** The appointing authority officials assessing candidates for appointment or carrying out monitoring of expert **entities on safety and health of workers** shall be required **not to** disclose any confidential information that came to their knowledge in connection with the assessment or monitoring, and not **to** use such information in their personal interests or in the interests of third parties, except in cases specified by law.	Should be changed, to substitute "expert organizations" by "expert entities on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities and to number the paragraph.
	5. The officials guilty of violation **of the obligation mentioned in the previous paragraph** shall be held liable according to law.	For clarity, simplicity and to number the paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
4. Delegation by the appointing authority of its powers to assess candidates for appointment, appoint them, and monitor expert organizations to other persons shall be prohibited.	**6.** Delegation by the appointing authority of its powers to assess candidates for appointment, appoint them, and monitor expert **entities on safety and health of workers** to other persons shall be prohibited.	Should be changed, to substitute "expert organizations" by "expert entities on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities, as well as to renumber the paragraph.
Specialists (auditors, experts) having at least three years of experience in performance of works and/or accreditation of expert organizations in the scopes of appointment subject to assessment or monitoring shall be involved in assessment of candidates for appointment and in monitoring of expert organizations.	**7.** Specialists (auditors, experts) having at least three years of experience in performance of works and/or accreditation of expert **entities on safety and health of workers** in the scopes of appointment subject to assessment or monitoring shall be involved in assessment of candidates for appointment and in monitoring of expert **entities on safety and health of workers**.	Should be changed, to substitute "expert organization(s)" by "expert entity(ies) on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may also apply and may also be appointed as expert entities, as well as to number the paragraph.
The appointing authority officials and the specialists (auditors, experts) may not participate in assessment of candidates for appointment or in monitoring of expert organizations if they were, during the past three years, or are officially subordinated to the candidate for appointment or the expert organization liable to assessment or monitoring, if they are related persons in the meaning of the Law of Ukraine "On Prevention of Corruption" for any person belonging to the staff of such candidate for appointment or expert organization, or if they participated in performance of work on accreditation of the respective candidate for appointment or expert organization.	**8.** The appointing authority officials and the specialists (auditors, experts) may not participate in assessment of candidates for appointment or in monitoring of expert **entities on safety and health of workers** if they were, during the past three years, or are officially subordinated to the candidate for appointment or the expert **entities on safety and health of workers** liable to assessment or monitoring, if they are related persons in the meaning of the Law of Ukraine "On Prevention of Corruption" for any person belonging to the staff of such candidate for appointment or expert **entities on safety and health of workers**, or if they participated in performance of work on accreditation of the respective candidate for appointment or expert **entities on safety and health of workers**.	

OSH draft Law provision's wording	Recommended wording	Rationale
The appointing authority officials and the specialists (auditors, experts) who provided inaccurate information about their compliance with the requirements thereto (except technical errors) may not be involved in assessment of candidates for appointment or monitoring of expert organizations during one year from the day on which the fact of their having provided inaccurate information was established and documented in an appropriate report.	**9.** The appointing authority officials and the specialists (auditors, experts) who provided inaccurate information about their compliance with the requirements thereto (except technical errors) may not be involved in assessment of candidates for appointment or monitoring of expert **entities on safety and health of workers** during one year from the day on which the fact of their having provided inaccurate information was established and documented in an appropriate report.	
The involved specialists (auditors, experts) shall take part in assessment of candidates for appointment or in monitoring of expert organizations together with the appointing authority officials as well as shall have the rights and perform the obligations set forth by the second paragraph (with replacement of the official ID card by a document certifying the identity according to law), third and fifth paragraphs of the third part of this Article.	**10.** The involved specialists (auditors, experts) shall take part in assessment of candidates for appointment or in monitoring of expert **entities on safety and health of workers** together with the appointing authority officials as well as shall have the rights and perform the obligations set forth by the second paragraph (with replacement of the official ID card by a document certifying the identity according to law), third and fifth paragraphs of the third part of this Article.	
The involved specialists may not make up more than a half of members of the commission that assesses a candidate for appointment or monitors an expert organization, or chair the said commission.	**11.** The involved specialists may not make up more than a half of members of the commission that assesses a candidate for appointment or monitors an expert **entity on safety and health of workers**, or chair the said commission.	
Article 44. Systematization and publication of data about expert organizations	**Article 44.** Systematization and publication of data about expert **entities on safety and health of workers**	Should be changed, to substitute "expert organizations" by "expert entities on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities.
1. Data about expert organizations shall be entered into the register of expert organizations.	1. Data about expert **entities on safety and health of workers** shall be entered into the register of expert **entities on safety and health of workers**.	

OSH draft Law provision's wording	Recommended wording	Rationale
2. The central executive authority that implements the state policy on safety and health of workers shall place the lists of expert organizations at its official website and update them as appropriate. Placement and updating of such lists shall be at no cost to expert organizations.	2. The central executive authority that implements the state policy on safety and health of workers shall place the lists of expert **entities on safety and health of workers** at its official website and update them as appropriate, at no cost to the expert **entities on safety and health of workers**.	Should be changed, to simplify the provision and to substitute "expert organizations" by "expert entities on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may apply and may be appointed as expert entities.
3. The lists of expert organizations shall contain their names, location, identification codes from the Uniform State Register of Enterprises and Organizations of Ukraine, contact data (telephone, fax, email, website, if any), expert organization identification codes assigned to them, and their scopes of appointment.	3. The lists of expert **entities on safety and health of workers** shall contain their names, location, contact data (telephone, fax, email, website, if any), expert organization identification codes assigned to them, their scopes of appointment **and their identification codes from the Uniform State Register of Enterprises and Organizations of Ukraine or, in the case of a natural persons, their identification number.**	Should be changed, to substitute "expert organizations" by "expert entities on safety and health of workers" and to foresee the information on the natural person's identification number (instead of the "identification codes from the Uniform State Register of Enterprises and Organizations of Ukraine "), allowing that natural persons (that are competent, have means and meet the necessary requirements) may also apply and may also be appointed as expert entities.
4. Primary and updated data about the expert organization's scope of appointment shall be entered into the list of expert organization no later than five working days from the day of issuance of an order about appointment of such an authority, extension or reduction of its scope of appointment, suspension or renewal of a certificate of appointment, or taking effect by a court decision about suspension of a certificate of appointment or reduction of the scope of appointment.	4. Primary and updated data about the scope of appointment of the expert **entity on safety and health of workers** shall be entered into the list of expert **entities on safety and health of workers** no later than five working days from the day of issuance of an order about appointment of such an authority, extension or reduction of its scope of appointment, suspension or renewal of a certificate of appointment, or taking effect by a court decision about suspension of a certificate of appointment or reduction of the scope of appointment.	Should be changed, to substitute "expert organization(s)" by "expert entity(ies) on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may also apply and may also be appointed as expert entities
Data about the expert organization shall be subject to deletion from the list of expert organizations no later than five working days	**5. The** data about **an** expert **entity on safety and health of workers** shall be subject to deletion from the list of expert organizations no later than five working days from the day of issuance of an	Should be changed, for clarity, to substitute "expert organization(s)" by "expert entity(ies) on safety and health of workers", allowing that natural persons (that are competent, have means

OSH draft Law provision's wording	Recommended wording	Rationale
from the day of issuance of an order on cancellation of the certificate of appointment.	order on cancellation of the certificate of appointment.	and meet the necessary requirements) may also apply and may also be appointed as expert entities, as well as to number the paragraph.
Article 45. Professional secret of appointed authorities		
1. The professional secret of expert organizations shall consist of the confidential information received or created in the course of the expert organization's performance of its tasks.	1. The professional secret of expert **entities on safety and health of workers** shall consist of the confidential information received or created **by them during the performance of their activities.**	Should be amended for clarity and also to substitute "expert organizations" by "expert entities on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may also apply and may also be appointed as expert entities.
Expert organizations, subcontractors and subsidiaries involved thereby and their staff shall be required to not disclose information being the subject of professional secret of expert organizations without the consent of the customer of works or the person whom such information concerns (except in cases of provision of such information according to law) and not use such information in their interests or in the interests of third parties.	**2.** Expert **entities on safety and health of workers**, subcontractors and subsidiaries involved thereby and their staff shall be required **not to** disclose information being the subject of professional secret of expert **entities on safety and health of workers** without the consent of the customer of works or the person whom such information concerns (except in cases of provision of such information according to law) and not use such information in their interests or in the interests of third parties.	
Article 46. Consideration of appeals against decisions of expert organizations	**Article 46.** Consideration of appeals against decisions of expert **entities on safety and health of workers**	
1. The person who commissions the work for carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment and/or provision of opinions as regards the employer's ability of ensuring safe performance of high-risk works shall have the right to lodge an appeal with the expert organization and demand revision of any	1. The **employer** who commissions work to a **expert entity on safety and health of workers** shall have the right to lodge an appeal **to the latter** and demand revision of any decision **made by the expert entity on safety and health of workers** concerning the subject of the work performed**.**	Should be changed in order to: • Clearly specify that, in the context of the present law, "who" commissions such works to the expert entities on safety and health of workers is the "employer"; • Substitute "expert organization" by "expert entity on safety and health of workers", allowing that natural persons (that are competent, have means and

OSH draft Law provision's wording	Recommended wording	Rationale
decision made by the expert organization concerning the subject of the work performed.		meet the necessary requirements) may also apply and may also be appointed as expert entities; • Simplify by avoiding repeating the services that the expert entity may provide, as they are already enumerated in sub-paragraph 7) of paragraph 1 of Article 1.
2. If the appellant does not agree with the expert organization's decision made as a result of consideration of the appeal, the decision may be appealed against by lodging an appeal with the appeals commission established by the central executive authority that implements the state policy on safety and health of workers (hereinafter referred to as the appeals commission).	2. If the appellant does not agree with **the decision of the expert entity on safety and health of workers** made as a result of the consideration of the appeal, the decision may be appealed against by lodging an appeal with the appeals commission established by the central executive authority that implements the state policy on safety and health of workers (hereinafter referred to as the appeals commission).	Should be changed to substitute "expert organization" by "expert entity on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may also apply and may also be appointed as expert entities.
If the appeal is supported in full or in part, the appeals commission shall make a relevant decision recommending the expert organization to cancel or amend the decision made thereby as a result of consideration of the appeal.	**3.** If the appeal is supported in full or in part, the appeals commission shall make a relevant decision recommending the **expert entity on safety and health of workers** to cancel or amend the decision made thereby as a result of consideration of the appeal.	Should be changed to substitute "expert organization(s)" by "expert entity(ies) on safety and health of workers", allowing that natural persons (that are competent, have means and meet the necessary requirements) may also apply and may also be appointed as expert entities, as well as to (re)number the paragraph.
The appeals commission shall include representatives of the appointing authority and specialists (auditors, experts). Representatives of expert organizations may not be members of the appeals commission.	**4.** The appeals commission shall include representatives of the appointing authority and specialists (auditors, experts). Representatives of **expert entities on safety and health of workers** may not be members of the appeals commission.	
A member of the appeals commission may not participate in consideration of the appeal if they were or are officially subordinated to the appellant or the expert organization which is a party to the appeal, or if the member is a related	**5.** A member of the appeals commission may not participate in consideration of the appeal if they were or are officially subordinated to the appellant or to the **expert entity on safety and health of workers** which is a party to the appeal,	

OSH draft Law provision's wording	Recommended wording	Rationale
person in the meaning of the Law of Ukraine "On Prevention of Corruption" for the appellant being a natural person, for any person from among the appellant's workers, or for any person belonging to the staff of the expert organization which is a party to the appeal.	or if the member is a related person in the meaning of the Law of Ukraine "On Prevention of Corruption" for the appellant being a natural person, for any person from among the appellant's workers, or for any person belonging to the staff of the **expert entity on safety and health of workers** which is a party to the appeal.	
3. Lodging an appeal with the expert organization and the appeals commission shall not restrict the appellant's right to resort to court.	**6.** Lodging an appeal with the **expert entity on safety and health of workers** and the appeals commission shall not restrict the appellant's right to resort to court.	
…….	**7.** The appeals commission's decision may be appealed against to court.	To number the paragraph.
4. The regulations on the appeals commission, its composition, and the procedure for consideration of appeals thereby shall be approved by the central executive authority that ensures the formulation of the state policy on safety and health of workers.	**8.** The regulations on the appeals commission, its composition, and the procedure for consideration of appeals thereby shall be approved by the central executive authority that ensures the formulation of the state policy on safety and health of workers.	To renumber the paragraph.
Section IX. FINAL PROVISIONS		
1. This Law shall take effect a year after its publication		
2. The Law of Ukraine "On Labour Protection" (Vidomosti Verkhovnoi Rady Ukrainy, 1992, No. 49, Art. 668, as amended) shall be declared null and void	2. The Law of Ukraine "On Labour Protection" (Vidomosti Verkhovnoi Rady Ukrainy, 1992, No. 49, Art. 668, as amended) shall be declared null and void **in the day this law takes effect**.	Should be changed, in order to better clarify that the law "on labour protection" is only repealed in the day that the new Law "on occupational safety and health of the workers" takes effect.
3. The following legislative acts of Ukraine shall be amended:		
1) in the Code of Labour Laws of Ukraine (Vidomosti Verkhovnoi Rady URSR, 1971, Annex to No. 50, Art. 375):		

OSH draft Law provision's wording	Recommended wording	Rationale
a) ……		
b) ……		
Chapter XVIII - STATE SUPERVISION (CONTROL) OF COMPLIANCE WITH THE LABOUR LEGISLATION		
Article 259. State supervision (control) of compliance with the labour legislation		
……		
……		
Measures of state supervision (control) of compliance with the labour legislation shall be implemented in the form of inspection visits and/or desk inspections of visited entities.	Measures of state supervision (control) of compliance with the labour legislation shall be implemented **through** inspection visits, desk inspections, **provision of technical information and advice to employers and workers, launching of information and awareness-raising campaigns and notifying the competent authority of defects or abuses not specifically covered by existing legal provisions.**	Should be changed to ensure consistency with Article 260 and also in order to better align with International Labor Standards [in particular, with ILO C081 - Art. 3(1); and C129 -Art. 6(1)] and best practices, according to which the measures of State supervision and control of compliance with labour legislation should also include the provision of technical information and advice to employers and workers, conducting information and awareness-raising campaigns and notifying the competent authority of defects or abuses not specifically covered by existing legal provisions.
In cases established by legislation, state supervision (control) of compliance with the labour legislation may also be exercised by local governments.		
……	**In the cases foreseen in the previous paragraph, the provisions of this law regarding labour inspection and labour inspectors should also apply, *mutatis mutandis*, to the exercise of labour inspection functions by local governments and to their labour inspectors.**	Should be changed, in order to ensure that the exercise of the functions of labour inspection by the local self-government bodies is also aligned with ILO C081 and C129 and to promote the consistency on the application of labour legislation across the entire territory of Ukraine.

OSH draft Law provision's wording	Recommended wording	Rationale
……		
Article 260. The state labour inspection		
The state labour inspection functions shall be assigned to the central executive authority that implements the state policy on state supervision (control) of compliance with the labour legislation, which .	The state labour inspection functions shall be assigned to, **and placed under the supervision and control of,** the central executive authority that implements the state policy on state supervision (control) of compliance with the labour legislation.	Should be changed, in order to better align with Article 4(1) of ILO C081 and Article 7(1) of ILO C129.
For the purpose of performing the tasks of supervision (control) of compliance with the labour legislation, the state labour inspection shall:		
1) carry out the measures of state supervision (control) (inspection visits, desk inspections) of compliance with the labour legislation;	1) **carry out inspection visits and desk inspections;**	Should be changed because, as point out above, measures of State supervision and control of compliance with labour legislation should also include, inter alia: provision of technical information and advice to employers and workers, conducting information and awareness-raising campaigns and notifying the competent authority of defects or abuses not specifically covered by existing legal provisions
2) inform visited entities and workers about the most effective methods of complying with the labour legislation, including in terms of ensuring equal rights and opportunities of women and men;	2) **provide technical information and advice** to **employers**, workers **and other relevant entities** about the most effective **means** of complying with the labour legislation, including in terms of ensuring equal rights and opportunities of women and men;	Should be changed, in order to better align with Article 3(1)(b) of ILO C081 and Article 6(1)(b) of ILO C129. It is important to stress that it is about technical information and advice (not just information). Moreover, it is advisable to delete "visits" because the information and technical advice can and should be provided not only to visited employers, workers or other entities, but also to the ones that were not visited (this information and technical advice can be provided by phone, in meetings in the labour inspectorate

OSH draft Law provision's wording	Recommended wording	Rationale
		premises, by email, or through the internet or social media. Moreover, it is important to specify that this technical information and advice main recipients are the employers and workers but it can also include "other relevant entities", such as trade unions, employers organizations, expert organizations, etc.
3) summarize the labour legislation application practices, and draft and submit proposals on improving **the efficiency of the state policy** on labour to the central executive authority that ensures the formulation of, and implements, the state policy on labour, employment, labour migration, employment relationship, social dialogue, **industrial safety, labour protection, occupational health**, handling of explosive materials, exercise of state mining supervision, and exercise of state supervision and control of compliance with the requirements of the labour and employment legislation.	3) summarize the labour legislation application practices, and draft and submit proposals on improving the **legislation and** the state policy on labour to the central executive authority that ensures the formulation of, and implements, the state policy on labour, employment, labour migration, employment relationship, social dialogue, **occupational safety and health**, handling of explosive materials, exercise of state mining supervision, and exercise of state supervision and control of compliance with the requirements of the labour and employment legislation.	It should be changed, in order to better align it with Art. 3(1)(c) of ILO C051 and 6(1)(c) of ILO C129. The idea is that labour inspection should bring to the attention of the competent authority the gaps, defects or abuses not specifically covered by existing legal provisions, in order to improve legislation and labour policy implementation. Is not to improve efficiency (which is a measure of the resources consumed per unit of output) of the state policy. At most, it would be to improve its effectiveness, i.e., its ability and extension to which it is able to achieve its objectives. Moreover, in order to ensure consistency with the law "on Occupational Safety and Health of Workers", the terms "industrial safety", "labour protection" and "occupational health" should all be substituted by the single term "Occupational Safety and Health".
4) ……		
5) ……		
6) ……		
7) ……		
	8) Conduct investigations of occupational accidents and occupational diseases.	Should be added, in order to align with Article 19(2) of ILO C129 and international best practices,

OSH draft Law provision's wording	Recommended wording	Rationale
		as well as to ensure the implementation of the provisions of Art. 21(f) and Art. 21(g) of ILO C081, Art. 27(f) and Art. 27(g) of ILO C129 and Art. 11(d) of ILO C155.
	9) organize and launch national, regional, sector-specific and thematic information and arareness-raising campaigns in the areas of labour relations and occupational safety and health.	
	10) inspect workplaces as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions.	Should be inserted, to align with Article 16 of ILO C081 and Article 21 of ILO C129.
The number of state labour inspectors must ensure the effective implementation of state supervision (control) measures with regard for:		
1) the number, nature, size and situation of the entities liable to inspection;	1) the number, nature, size and situation of the **employers' workplaces and of other entities' premises** liable to inspection;	To better align with Art. 10(a)(i) of ILO C081 and Art. 14(a)(i) of ILO C129, whilst foreseen other entities (e.g., expert entities on safety and health of workers).
2) the number and categories of workers employed at such entities;	2) the number and categories of workers employed at such **workplaces**;	To better align with Art. 10(a)(ii) of ILO C081 and Art. 14(a)(ii) of ILO C129.
3) ……		
4) ……		
5) other conditions under which inspection visits and desk inspections are carried out.	5) other conditions under which inspection visits and desk inspections **have to be** carried out **in order to be effective**.	To better align with Art. 10(c) of ILO C081 and Art. 14(c) of ILO C129.
Article 261. Powers of state labour inspectors		
State labour inspectors shall be officials of the central executive authority that implements the state policy on state supervision (control) of compliance with the labour legislation, whose official duties envisage the exercise of the functions of state supervision (control) of	State labour inspectors shall be officials of the central executive authority that implements the state policy on state supervision (control) of compliance with the labour legislation, whose official duties envisage the exercise of the functions of state supervision (control) of	In order to ensure consistency with the law "on Occupational Safety and Health of Workers", the terms "industrial safety", "labour protection" and "occupational health" should all be substituted by the single term "Occupational Safety and Health".

OSH draft Law provision's wording	Recommended wording	Rationale
compliance with legislation and who have succeeded in knowledge testing according to the procedure set forth by the central executive authority that ensures the formulation of, and implements, the state policy on labour, employment, labour migration, employment relationship, social dialogue, industrial safety, labour protection, occupational health, handling of explosive materials, exercise of state mining supervision, and exercise of state supervision and control of compliance with the requirements of the labour and employment legislation.	compliance with legislation and who have succeeded in knowledge testing according to the procedure set forth by the central executive authority that ensures the formulation of, and implements, the state policy on labour, employment, labour migration, employment relationship, social dialogue, **occupational safety and health**, handling of explosive materials, exercise of state mining supervision, and exercise of state supervision and control of compliance with the requirements of the labour and employment legislation.	
……		
……		
……		
State labour inspectors provided with an official ID card shall have the right to:	State labour inspectors provided with an official ID card shall have the **power** to:	To ensure consistency with the title of the Article and to better align with Article 12(1) of ILO C081 and Article 16(1) of ILO C129
1) visit freely and without previous notice, at any time of day or night any workstations of the visited entity as well as enter any production, service and administrative premises of visited entities where hired labour is used, to carry our an inspection visit;	1) **enter freely and without previous notice at any hour of the day or night any workplace liable to inspection;**	To better align with Article 12(1)(a) of ILO C081 and Article 16(1)(a) of ILO C129. The reasons to enter might be an inspection visit, but can also be to provide information and technical advice, to carry out an awareness-raising campaign, to make an inquiry about a work-related accident or an occupational disease, to deliver a notification to the employer, to collect documents, etc.
2) enter any non-residential buildings, premises, structures and other facilities where there are natural persons concerning whom sufficient grounds exist to believe that they perform	2) **enter by day any premises which they may have reasonable cause to believe to be liable to inspection;**	To better align with Article 12(1)(b) of ILO C081 and Article 16(1)(b) of ILO C129.

OSH draft Law provision's wording	Recommended wording	Rationale
employment duties or are subjected to forced labour;		
	3) **carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed, in particular:**	To better align with Article 12(1)(c) of ILO C081 and Article 16(1)(c) of ILO C129, inserting this new renumbered sub-paragraph.
3) review originals and make copies (including electronic) of any acts of visited entities, collective contracts or labour agreements as well as documents the keeping of which is prescribed by the labour legislation;	- **require the presentation of any books, registers or other documents, including** acts, collective contracts, labour agreements **and other documents** the keeping of which is prescribed by national laws or regulations relating to conditions of life and work, **and to copy such documents,** including electronic, **or make extracts from them;**	To better align with Article 12(1)(c)(ii) of ILO C081 and Article 16(1)(c)(ii) of ILO C129.
4) interrogate, alone or in the presence of witnesses, the visited entity and/or workers, representatives of trade unions, their organizations and associations members whereof are employed at the visited entity, and obtain necessary explanations, reports, materials or other information from them concerning violations of the labour legislation and concerning the measures taken to eliminate the violations;	- interrogate, alone or in the presence of witnesses, **the employer and its representatives**, **the** workers **and their representatives**, the visited entity **and its representatives**, **and any other person in the workplace**, on any matters concerning the application of the legal provisions and obtain the necessary explanations, reports, materials or other information from them concerning **the application of legal provisions**;	To better align with Article 12(1)(c)(i) of ILO C081 and Article 16(1)(c)(i) of ILO C129.
	- to enforce the posting of notices required by the legal provisions;	To better align with Article 12(1)(c)(iii) of ILO C081.
6) take samples of materials and substances used or handled;	- to take samples of **products**, materials and substances used or handled **for purposes of analysis, subject to the employer or his representative being notified of any products, materials or substances taken for such purposes**;	To better align with Article 12(1)(c)(iv) of ILO C081 and Article 16(1)(c)(iii) of ILO C129.
5)	**4)**	To renumber the paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
7) based on findings of an inspection visit, recognize work as being performed within an employment relationship, regardless of the name and type of contractual relations between the parties;	**5)** based on findings of an inspection visit, recognize work as being performed within an employment relationship, regardless of the **absence of an written employment agreement and notwithstanding how the relationship is characterized in any contrary arrangement, contractual or otherwise, that may have been agreed between the parties;**	To better align with point 9 of ILO Recommendation 198. Also to renumber the sub-paragraph.
8) submit to visited entities binding orders concerning elimination of any violations of the labour legislation detected;	**6)** submit to **employers and other** entities binding orders concerning elimination of any violations of the labour legislation detected;	To separate employers from other potential objects of visits (such as expert organizations). Also to ensure that biding order can be issued by labour inspectors to employers in cases where they were not visited, if the violation can be proved by other means such as, but not limited to, for example, desk inspections. Also to renumber the sub-paragraph.
9)	**7)**	To renumber the sub-paragraph.
10) involve law-enforcement bodies to stop any unlawful actions of the visited entity and persons who prevent them from discharging their official duties;	**8) request assistance to, and obtain it from**, law-enforcement bodies to stop any unlawful actions of the **employer or any other** visited entity **and/or of** persons who prevent them from discharging their official duties**, or if such is expected to occur.**	It should be changed to foresee not just the right to request, but also to obtain the assistance from law-enforcement bodies. Also to ensure that such support should be required/obtained, not only when the situation occur, but also when they are expected to occur, in order to ensure the protection of the life, safety and health of labour inspectors. Finally, to renumber the sub-paragraph.
11) draw up, in cases provided for by law, reports on administrative offences, consider cases on such offences, and impose administrative penalties;	**9)**	To renumber the sub-paragraph.
12) obtain free of charge any statistical and other reporting data, information, documents and materials necessary to exercise their powers,	**10)** obtain free of charge any statistical and other reporting data, information, documents and materials necessary to exercise their powers,	Should be changed, to separate employers from other potential objects of visits (such as expert organizations) and to renumber the paragraph.

OSH draft Law provision's wording	Recommended wording	Rationale
from visited entities, bodies authorized to manage property, and public authorities;	from **employers and other** visited entities, bodies authorized to manage property, and public authorities;	
13) demand for examination identity documents from the natural persons being at workstations or outside them in production, service or administrative premises, buildings, structures and other facilities used for economic activities concerning whom there are grounds to believe that they perform employment duties;	**11)** ……	To renumber the sub-paragraph.
14) record the inspection visit process with the aid of audio, photo and video equipment.	**12)** ……	To renumber the sub-paragraph.
	13) decide to give warning and advice instead of instituting or recommending administrative penalties.	To better align with Article 17(2) of ILO C89 and Article 22(2) of ILO C129.
Article 262. Main obligations of state labour inspectors		
……		
1) ……		
2) not disclose state secret, commercial secrets and other information protected by law that came to their knowledge in the course of discharging their official duties;	2) not disclose**, even after leaving the service, any** state secret, **manufacturing or** commercial secrets and other information protected by law that came to their knowledge in the course of discharging their official duties;	To better align with Article 15(b) of ILO C081 and Article 20(b) of ILO C129.
3) keep confidential the sources of any complaint or information about defects or violation of the labour legislation due to which the inspection visit is carried out, unless the source itself gave its consent to disclosure of such information;	3) **keep as absolutely** confidential the source**s** of any complaint or information about defects or violation of the labour legislation **and shall give no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint.**	To better align with Article 15(c) of ILO C081 and Article 20(c) of ILO C129. Even when the complainants give their consent to disclose such information, labour inspectors should not do it. If complainants want to do it, they can do it themselves.

OSH draft Law provision's wording	Recommended wording	Rationale
4) inform visited entities and workers concerning the best practices of applying the labour legislation, including in terms of ensuring equal rights and opportunities of women and men;	4) **provide technical information and advice** to **employers**, workers **and other relevant entities** about the most effective **means** of complying with the labour legislation, including in terms of ensuring equal rights and opportunities of women and men;	Should be changed, in order to better align with Article 3(1)(b) of ILO C081 and Article 6(1)(b) of ILO C129. I addition, it should be deletes "visited", as this information and technical advice can and should be provided not only to visited employers, workers or other entities, but also to the ones that were not visited (this information and technical advice can be provided by phone, in meetings in the labour inspectorate premises, by email, or through the internet or social media). Moreover, it is important to specify that this technical information and advice main recipients are the employers and workers but it can also include "other relevant entities", such as trade unions, employers organizations, expert organizations, etc.
	5) notify the employer or his representative or, where appropriate, the visited entity or his representative, of their presence, unless they consider that such a notification may be prejudicial to the performance of their duties.	This paragraph should be inserted, in order to better align with Article 12(2) of ILO C089 and Article 16(3) of ILO C129.
State labour inspectors shall be prohibited from:		
1) ……		
2) substituting for the visited entity's workers during calculations or re-calculations of the amounts of funds due to the workers, and from drafting opinions on conformity or non-conformity of the visited entity's regulatory acts with the requirements of regulatory legal acts for the purpose of their further handover to workers (including those with whom a labour	**Should be deleted.**	This paragraph contradicts Article 3(1)(b) of ILO C081 and Article 6(1)(b) of ILO C129. One of the main functions of labour inspection is precisely to provide workers and employers with technical advice and information on the most effective means to comply with the legal provisions.

OSH draft Law provision's wording	Recommended wording	Rationale
agreement was terminated), other persons or bodies;		
3) demanding from the visited entity extracts and copies of any documents which were provided by the entity to a labour inspector before and/or are kept by the state labour inspection, and which may be freely and at no cost obtained via state information systems or resources;	3) demanding from the visited entity extracts and copies of any documents which were provided by the entity to a labour inspector before and/or are kept by the state labour inspection, and which may be freely and at no cost obtained via state information systems or resources, **unless the latter are not up to date;**	Should be changed in order to foresee that documents that were previously provided, but which are no longer up to date, due to time passed since they were provided, may be requested again.
4) handing any documents or their copies obtained from the visited entity over to other persons, and demanding them from the employer for this purpose;	4) handing any documents or their copies obtained from the visited entity over to **unauthorized** persons, and demanding them from the employer for this purpose;	Should be changed in order to foresee that the documents may have to pass between colleagues within the same or different departments of the labour inspection and may also be sent to court or to other competent public authorities.
5) ……		
Article 263. Independence and means of state labour inspectors	**Article 263.** Independence **and means** of state labour inspectors	Should be changed for better clarity the content of the article.
……		
	The inspection staff shall be composed of public officials whose status and conditions of service, including remuneration, are such that they are assured of stability of employment and are independent of changes of government and of improper external influences.	Should be inserted this paragraph, in order to align with Article 6 of ILO C081 and Article 8(1) of ILO C129 and to stress the relevance of the remuneration of labour inspectors, which motivated the proposed "Article 263[1]. Labour remuneration of state labour inspectors", that we suggested below to delete and regulate in a specific law on labour inspection (which should address, besides remuneration, other issues such as recruitment, training, career path, powers, procedures, etc.).
	Labour inspectors shall be prohibited from having any direct or indirect interest in the undertakings under their supervision.	Should be inserted this paragraph, in order to align with Article 15(a) of ILO C081 and Article

OSH draft Law provision's wording	Recommended wording	Rationale
		20(a) of ILO C129, in order to ensure their independence and avoid conflict of interests.
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1) ……		
2) ……		
3) ……		
4) ……		
5) ……		
To carry out inspection visits of the entities situated in the places where there are no public transport facilities or where the use of such facilities does not allow carrying out an inspection visit in time or at a certain hour of the day or night, state labour inspectors shall be provided with special-purpose transport facilities.	Labour inspectors shall be provided with special-purpose transport facilities **for the performance of their duties at locations to or from where there are no public transport facilities** or where the use of such facilities does not allow carrying out **their duties** in **due** time or at a certain hour of the day or night.	Should be changed, in order to better align with Article 11(1)(b) of ILO C081 and Article 15(1)(b) of ILO C129, as this provision is applicable not only for the performance of inspection visits, but also to the discharge of other duties of labour inspectors (e.g., meetings, information actions, provision of technical advices and information, etc.).
State labour inspectors shall be provided with office premises accessible to visitors.	State labour inspectors shall be provided with **local offices, suitably equipped in accordance with the requirements of the service, and accessible to all persons concerned**	To better align with Article 11(1)(a) of ILO C081 and Article 15(1)(a) of ILO C129.
	Labour inspectors shall be reimbursed of any travelling and incidental expenses which may be necessary for the performance of their duties.	Should be inserted, to align with Article 11(2) of ILO C081 and Article 15(2) of ILO C129.
Article 263[1]. Labour remuneration of state labour inspectors	The remuneration of labour inspectors is a very important issue. ILO Conventions Nos. 81 and 129, for example, remind Member States of the need to ensure that the conditions of service of labour inspectors are such that they are independent of changes of government and of improper external influences and that labour inspectors should be reimbursed for any travelling and incidental expenses which may be necessary for the performance of their duties. In addition a recent ILO publication "A study on labour inspectors' careers" (pp. 48-49), notes that ILO Recommendation No. 20 draws attention to labour inspectors' "remuneration", but it only links it to freedom from any improper external influences, i.e. a fair salary as a mean to avoid the	
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OSH draft Law provision's wording	Recommended wording	Rationale
……	temptation of treating certain employers leniently in exchange of favours. It also points out that CEACR warns that insufficient remuneration for the Labour Inspectorate may result in a higher turnover among labour inspectors and make it more difficult to attract highly qualified individuals. It stresses that the Committee also remarks that individual labour inspectors may be treated with disrespect on account of their low salaries. According to this publication, CEACR stresses that labour inspectors' remuneration should be commensurate with their responsibilities, and at least as good as that of other civil servants at comparable levels in the same country. It also links performance related incentives, granted to teams and individuals, as being a recognition, reinforcement and rational use of employees' skills. The above ILO publication offers guidance and shares some best practices on remuneration packages for labour inspectors, including on performance-based incentive schemes, career development, recruitment, training, etc. **Notwithstanding the above, this article should be deleted, as the provisions regarding labour inspectors' remuneration, recruitment, training, career path, etc., should be regulated in a specific law, and not on the Code of Labour Laws.**	
	Article 263[1]. Recruitment and training of labour inspectors	To align with International Labour Standards (Article 7 of ILO C081 and Article 9 of ILO C129) and best practices.
	Labour inspectors shall be recruited with sole regard to their qualifications for the performance of their duties.	
	The means of ascertaining such qualifications shall be determined by law.	
	Labour inspectors shall benefit from adequate initial and continuous training for the performance of their duties, which shall be prescribed by law.	
Article 263[2]. Liability of state labour inspectors	**Should be deleted.**	Taking into account the specificities of the functions of the labour inspectors as public servants and their responsibilities, their liability for compensations should be regulated either in a specific law regulating the labour inspection statute (including remuneration, recruitment,
A state labour inspector shall be liable, by way of recourse, in the amount of the compensation paid from a respective budget because of unlawful decisions, actions or omission of such a		

OSH draft Law provision's wording	Recommended wording	Rationale
labour state inspector, as confirmed according to the procedure established by law.		training, career path, etc.) or within a specific law on liability of public servents. In that occasion, it should also be advisable to consider the regulation of an insurance scheme to which labour inspectors could transfer their responsibility regarding compensation of claims to an insurance company. **In any case, it should not be regulated within the Code of Labour Laws that regulates the relations between employers and workers.**
Article 264. Visited entity	**Article 264.** **Inspected** entity	Should be changed, as the entity might be object of a desk inspection, which does not necessarily imply a visit.
……..		
During an inspection visit or desk inspection, the visited entity shall have the right to:	During an inspection visit or desk inspection, the **inspected** entity shall have the right to:	Should be changed, as the entity might be object of a desk inspection, which does not necessarily imply a visit.
1) ……		
2) receive a copy of referral for an inspection visit or desk inspection;	2) receive a copy of referral for an inspection visit or desk inspection, **in the cases where the inspection was previously scheduled and notified;**	Should be changed as suggested, in order to take into account situations where the inspection visit is carried out without prior notice (because labour inspectors consider that such a notification may be prejudicial to the performance of their duties), in particular in situations where the inspection visit is carried out by initiative of a labour inspector immediately following a complaint or an information received, or following its own observation, and there is no time to register the inspection prior to carrying it out because that could be prejudicial to the performance of their duties.
3) not provide extracts or copies of any documents which were provided by the entity to	3) not provide extracts or copies of any documents which were provided by the entity to	Should be changed in order to foresee that documents that were previously provided, but

OSH draft Law provision's wording	Recommended wording	Rationale
a labour inspector before and/or are kept by the state labour inspection, and which may be freely and at no cost obtained via state information systems or resources;	a labour inspector before and/or are kept by the state labour inspection, and which may be freely and at no cost obtained via state information systems or resources, **unless the ones previously provided are not up to date;**	which are no longer up to date, due to time passed since they were provided, may be requested again.
4) require termination of the inspection visit or desk inspection if the maximum time limit for that measure, as specified in legislation, is exceeded;	**Should be deleted.**	This provision should be deleted because is contradictory with Article 16 of ILO C081 and Article 21 of ILO C129, according to which "workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions".
5) ……		
6) ……		
7) ……		
8) ……		
9) ……		
10) ……		
11) ……		
12) ……		
13) ……		
Article 265. Grounds for carrying out inspection visits (desk inspections)	**Article 265.** Grounds for carrying out inspection visits **and** desk inspections	The title of the article is not clear. Are the grounds regarding both inspection visits **and** desk inspections? If that is the case, then the title should be changed in order to more clearly reflect that, as proposed.
Inspection visits (desk inspections) shall be carried out on the following grounds:	Inspection visits **and desk inspections** shall be carried out on the following grounds:	Should be changed for clarity.
1) a natural person's appeal on a violation of the labour legislation against them;	1) a natural person's appeal on a violation of the labour legislation against **herself**;	For clarity

OSH draft Law provision's wording	Recommended wording	Rationale
2) a decision of the state supervision (control) authority head on carrying out inspection visits solely to find any violations provided for by Art. 268(2)(1) of this Code, as made on the basis of analysis of the information obtained from public authorities and from other sources access to which is not restricted by legislation;	2) a decision of the central executive authority that implements the state policy on state supervision (control) of compliance with the labour legislation, **aimed at ensuring the discharge of the duties of labour inspection, pursuant to Article 260;**	**If the imposition of the grounds for the performance of inspection visits restrict the free initiative of labour inspectors and prevent them from discharging their duties, then the restrictions are contradictory to ILO C081 and C129.** The inspection visits should not be restricted to detect the violations provided for in Article 268(2)(1), but to allow the discharge of **all functions** of the labour inspection, including the control and enforcement of the labour relations and safety and health legislation. It can also include, for example, carry out investigations on occupational accidents and diseases, provision of technical advice and information, inquiring employer and workers, have meetings with the employer, notify the employer, etc.
3) a court decision;		
4) a request by the Verkhovna Rada of Ukraine Commissioner for Human Rights;		
5) a parliament member's request;		
6) instruction from the Prime Minister of Ukraine;		
7) failure to comply with requirements stated in the order (no later than 20 working days from the last day of the time limit for the elimination of violations set forth in the order).		
	8) a workers's representative for safety and health of the workers complaint or a worker's trade union representative complaint;	To better align with International and EU Labour Standards and best practices.
	9) an employer or employer's representative complaint;	

OSH draft Law provision's wording	Recommended wording	Rationale
	10) the free initiative of labour inspectors.	In order to better align with ILO C081 and C129 and recent CEACR comments to Ukraine, regarding labour inspection.
	When carrying out an inspection visit or a desk inspection, labour inspectors shall have the right to widen the scope of the inspection visit or desk inspection, depending on the situations they verified.	Should be inserted, in order to align with Article 16 of ILO C081 and Article 21 of ILO C129, according to which "workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions" .
The matters concerning the visited entity's compliance with the legislative requirements on formalization of employment relationship shall be examined during every inspection visit regardless of its grounds.		
Article 266. The procedure for carrying out inspection visits (desk inspections)	**Article 266.** The procedure for carrying out inspection visits **and** desk inspections	The title of the article is not clear. Are the grounds regarding both inspection visits **and** desk inspections? If that is the case, then the title should be changed in order to more clearly reflect that, as proposed.
……		
It shall be prohibited to carry out inspection visits not registered by the state labour inspection according the procedure set forth by law.	**Where inspection visits or desk inspections cannot be registered before being carried out, such registration shall be done as soon as possible.**	The proposed paragraph should be changed because it restricts the free initiative of labour inspectors to carry out inspection visits at any time of day or night without prior notice and might prevent them from carrying inspections visits in due time, following situations that they become aware of and which require immediate and urgent inspection visit or desk inspection.
When preparing for an inspection visit, the labour inspector may obtain information and/or documents related to the inspection visit subject, in particular by means of analyzing any available (public) information concerning the	When preparing for an inspection visit, the labour inspector may obtain information and/or documents related to the inspection visit subject, in particular by means of analyzing any available (public) information concerning the status of the	Should be changed, in order to better align with Article 5 of ILO C081 and Article 13 of ILO C129, widening the sources of information and ensuring the cooperation with and the involvement of

OSH draft Law provision's wording	Recommended wording	Rationale
status of the visited entity's compliance with the labour legislation.	visited entity's compliance with the labour legislation, **information regarding previous inspections visits, as well as through other sources, including, but not limited to, workers, trade unions, employers, employers' organizations, and information held by other public authorities.**	workers, employers and their representatives, and other public authorities, as needed.
…….		
Duration of an inspection visit may not exceed 10 working days.	**Should be deleted.**	This provision is contradictory to Article 16 of ILO C081 and Article 21 of ILO C129, according to which "workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions"- as such, it should be deleted. In fact, the duration of an inspection visits or a desk inspection depends on a series of variables including, but not limited to: number and complexity of the legal provisions to be controlled and enforced, number of workers and workplaces, geographical location and layout of the workplaces, number and nature of the occupational risks to which workers are or might be exposed to, number and complexity of other unexpected situations verified during a given inspection visit or desk inspection, etc.
Representatives of trade unions, their organizations and associations members whereof are employed at the visited entity, of visited entities' organizations and their associations, and of public authorities may be involved in inspection visits as appropriate (with the consent of the visited entity or an official authorized thereby).	Representatives of trade unions, their organizations and associations members whereof are employed at the visited entity, of visited entities' organizations and their associations, and of public authorities may be involved in inspection visits, **if so requested by labour inspectors.**	This provision should be changed, as it contradicts Article 12(2) of ILO C081 and Article 16(3) of ILO C129. Labour inspectors are the responsible for carrying out inspection visits. They are the ones that should decide how, when and with whom (if any) the inspection visit is to be carried out.

OSH draft Law provision's wording	Recommended wording	Rationale
During an inspection visit, the matters the need to verify which provided a ground for the visit as well as the matters concerning the visited entity's compliance with the legislative requirements in terms of formalization of employment relationship shall be cleared up.	**During an inspection visit or a desk inspection which was previously registered with a specific ground, and without prejudice to the control of the compliance with the legislative requirements on formalization of employment relationships, labour inspectors shall have the right to extend the grounds, duration and frequency of the inspection visit or desk inspection to control and enforce other legal provisions on the basis of the situations they verify during the mentioned inspection visit or desk inspection.**	Should be changed, as this provision contradicts Article 16 of ILO C081 and Article 21 of ILO C129, according to which "workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions". Labor inspectors should be allowed to widen the scope of the inspection visits or desk inspections, as well as its duration and frequency, depending on the situations they encounter on the workplaces or during desk inspections.
During an inspection visit, the state labour inspector shall be required to produce their ID card to the visited entity or the official authorized thereby and to provide a copy of the referral for the inspection visit.	During an inspection visit, the state labour inspector shall be required to produce their ID card to the visited entity or the official authorized thereby and to provide, where **the inspection visit was previously registered,** a copy of the referral for the inspection visit.	Should be changed, in order to provide for situation where the inspection visit was carried out without being previously registered, pursuant to the second paragraph of this article with the suggested amendments.
If the event of absence of, or failure to provide, any documents the keeping of which is provided for by the labour legislation, the visited entity shall be served a written demand specifying the time limit for restoration and/or provision of the documents. The inspection visit shall be suspended for the period necessary to comply with such a demand and shall be resumed from the day on which the above-mentioned period expires.	If the event of absence of, or failure to provide, any documents the keeping of which is provided for by the labour legislation, **and without prejudice to respective sanction,** the **employer or other entity object of inspection visit or desk inspection** shall be served a written demand specifying the time limit for restoration and/or provision of the documents. **In this case, labour inspector may decide to continue the inspection visit or desk inspection regarding other areas to which the missing document is not relevant and conduct the inspection visit in the area to which the missing documents are relevant in another occasion or to suspend the inspection visit or desk inspection until receiving the missing document.**	Should be change, in order to ensure that, in this situation: • The employer or other entity object of inspection visit or desk inspection is liable for not complying with their obligation and, therefore, might be subjected to the imposition of a fine; • The labour inspector is the one that should decide either to proceed or to suspend the inspection visit or desk inspection, depending on the relevance of the missing document, opportunity and importance of continuing the inspection visit and the nature of the situation and seriousness of the infringements detected.

OSH draft Law provision's wording	Recommended wording	Rationale
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Article 267. Drawing up documents based on outcomes of an inspection visit (desk inspection)	**Article 267.** Drawing up documents based on outcomes of an inspection visit **and** desk inspection	The title of the article is not clear. Are the grounds regarding both inspection visits **and** desk inspections? If that is the case, then the title should be changed in order to more clearly reflect that, as proposed.
Based on outcomes of an inspection visit (desk inspection), an inspection visit (desk inspection) report (hereinafter referred to as the report), and, if any violations of the labour legislation requirements were found, an order for remedying the violations and a warning on liability for violations of the labour legislation shall be drawn up.	Based on outcomes of an inspection visit **or** desk inspection, an inspection visit **or** desk inspection report (hereinafter referred to as the report), and, if any violations of the labour legislation requirements were found, an order for remedying the violations and a warning on liability for violations of the labour legislation shall be drawn up.	For clarity.
	Regarding the cases foreseen in sub-paragraphs 1) and 2) of paragraph 2 of Article 32 of the Law of Ukraine "on occupational safety and health of workers", concerning the notification of the employer to take safety and health preventive and protective measures within a reasonable time limit and/or to immediate stop works, in order to secure the safety and health of workers, the employers' reservations, complaints, or resources to the court, shall not have suspensive effect.	This paragraph needs to be inserted, in order to ensure that the necessary safety and health measures, as well as the precautionary measures are effectively and timely implemented, in order to secure the safety and health of the workers, ensuring a better alignment with International Labor Standards (Article 13 of ILO C081 and Article 18 of ILO C129) and best practices.
	It is for the labour inspector to decide to take measures for holding liable the employer for the violations described in the report and/or in the order mentioned in the paragraphs above,	Should be changes as proposed to align with the International Labour Standards [Article 17(2) of ILO Convention 81 and Article 22(2) of ILO Convention 129, according to which "It shall be left to the discretion of labour inspectors to give

OSH draft Law provision's wording	Recommended wording	Rationale
	irrespective of whether the violations detected were eliminated or not.	warning and advice instead of instituting or recommending proceedings"] and best practices.
Article 268. Liability for violations of the labour legislation		
Visited entities shall be held liable through imposition of a fine in the following cases:	**Without prejudice to civil and criminal liability, where applicable,** visited entities, **their owners, administrators and legal representatives** shall be held liable through imposition of a fine in the following cases:	Should be changed, in order to align with international best practices and dissuade non-compliance.
8) violation of requirements of the labour legislation other than those provided by paragraphs 1-7 of this part,	8) violation of requirements of the labour legislation other than those provided by paragraphs 1-7 of this part **and other than those provided in Article 35 of the Law of Ukraine "On Occupational Safety and Health of Workers",**	To avoid that all the violations foreseen in Article 35 of the Law of Ukraine "On Occupational Safety and Health of Workers" (which is also considered as a component of "labour legislation", pursuant to Article 3(1) of the law "on safety and health of workers") might be sanctioned with a minimum wage for each violation, as foreseen is this paragraph. In addition, the infringements that are foreseen on this residual provision should be kept to a minimum!
- in the amount of a minimum wage for every such violation;	**This residual provisions, foreseeing a fine in the amount of a minimum wage for every violation for any other violation of the labour legislation other than those provided by paragraphs 1-7 of this part is inconsistent with the equivalent provision of Article 35(4)(16) of the law "On Occupational Safety and Health of Workers", which foresees a fine in the amount of a half minimum wage for other infringements of that law not specifically specified in the preceding paragraphs. As such, this provision should be changed to ensure consistency with Article 35(4)(16) of the law "On Occupational Safety and Health of Workers".** **Moreover, the different violations and corresponding sanctions should be, as much as possible, specified in specific legal provisions and not grouped in a residual provision. The more serious violations should be individualized and its sanctioning should be foreseen in specific legal provisions. As such, this Article 268, should specially foresee specific and individualized infringements and corresponding sanctions for the most serious and important violations**	

OSH draft Law provision's wording	Recommended wording	Rationale
	In addition: • **The amount of fines should also be based on the size of the employers;** • **The amount of fine should also include the financial gain of the employer with the commitment of the infraction, in order to dissuade non-compliance;** • **It should also be introduced non-monetary accessory sanctions, more directed to the vital interests of the employers.**	
If the visited entity complied with the order and eliminated the detected violations provided for in paragraphs 3-5, 8 of the second part of this Article within the time limits prescribed in the order, no measures for holding liable shall be applied.	**THIS PARAGRAPH SHOULD BE DELETED:** **This paragraph should be deleted because:** **1. It takes out from the labour inspection activity and from the infringement proceedings the effect of general prevention, i.e., the fact that the subjects of legal provisions tend to comply with them in order to avoid being sanctioned. This legal provision is likely to disincentive employers to comply with OSH legislation from the outset, because they know that if their infractions are detected, they will always have the opportunity to correct them without being sanctioned. In fact, instead of complying with the legal provisions, they will be waiting for the labour inspectors to detect them and, if and when they do detect them, they will have the time to correct the infringements without any penalization.** **2. This provision contradicts:** **a. Article 17(2) of ILO Convention 81 and Article 22(2) of ILO Convention 129, according to which "It shall be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending proceedings";** **b. 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";** **c. 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"; and** **d. Article 4(2) of EU Directive 89/391/EEC, according to which the states "shall ensure adequate controls and supervision".**	
Article 269. Procedure for holding liable for violation of the labour legislation		
an inspection visit (desk inspection) report drawn up according to the requirements hereof;	an inspection visit **or** desk inspection report drawn up according to the requirements hereof;	For clarity, as the current Article applies to both inspection visits and desk inspections.

OSH draft Law provision's wording	Recommended wording	Rationale
The authorized official shall notify the date of receipt of the documents mentioned in the second-fifth paragraphs of this Article to the visited entity in written no later than five days after their receipt by registered mail, fax or telephone or by means of delivering the notice to their representatives, in which case a relevant mark shall be made and certified by such a representative's signature on the copy of the notice kept with the authorized official who sent such a notice.	The authorized official shall notify the date of receipt of the documents mentioned in the second-fifth paragraphs of this Article to the **inspected** entity in written no later than five days after their receipt by registered mail, fax or telephone or by means of delivering the notice to their representatives, in which case a relevant mark shall be made and certified by such a representative's signature on the copy of the notice kept with the authorized official who sent such a notice.	Should be changed for clarity, as the entity might not have been visited if it was object of a desk inspection and not iof an inspection visit.
The resolution on imposition of a fine shall be drawn up in two counterparts one of which shall be kept by the authorized official who considered the case and the second one shall be sent, within three days from the drawing-up day, to the visited entity concerning which the resolution is issued or shall be served to their representative, to which effect a relevant mark shall be made on that counterpart certified by signature of the visited entity or their representative.	The resolution on imposition of a fine shall be drawn up in two counterparts one of which shall be kept by the authorized official who considered the case and the second one shall be sent, within three days from the drawing-up day, to the **inspected** entity concerning which the resolution is issued or shall be served to their representative, to which effect a relevant mark shall be made on that counterpart certified by signature of the visited entity or their representative.	
If there are no grounds to impose a fine, the authorized official shall notify that in written to the visited entity or employer within the time limit set forth by the third part of this Article.	If there are no grounds to impose a fine, the authorized official shall notify that in written to the **inspected** entity or employer within the time limit set forth by the third part of this Article.	
A fine shall be paid within one month from the adoption of the resolution on its imposition, to which effect the visited entity shall inform the authorized official who drew up the resolution on imposition of the fine.	A fine shall be paid within one month from the adoption of the resolution on its imposition, to which effect the **inspected** entity shall inform the authorized official who drew up the resolution on imposition of the fine.	

OSH draft Law provision's wording	Recommended wording	Rationale
If the visited entity pays 50 percent of the fine within 10 banking days from the day on which a resolution on imposition of a fine was served, the resolution shall be deemed complied with.	If the **inspected** entity pays 50 percent of the fine within 10 banking days from the day on which a resolution on imposition of a fine was served, the resolution shall be deemed complied with.	
Article 270. Providing the visited entity and its staff with information and advice on the most effective means of complying with the labour legislation	**Article 270. Provision of technical information and advice**	Should be changed, because: 1. the labour inspection function of providing technical advices and information has, as main recipients, employers and workers; 2. The technical information and advice may (and should) be provided through several means (including regular mail, electronic mail, website, phone, in labour inspection premises, through social media, etc.) and not just through inspection visits For the reasons above, the term "visits" should be deleted.
	For the purpose of receiving technical advice and recommendations, employers and workers, as well as their representatives, may request to labour inspection the needed information and advice through the internet, phone, electronic mail, regular mail, as well as through the face-to-face information services of the labour inspectorate and during inspection visits and desk inspections.	Should be inserted, in order to better align with international and European best practices.
	Considering the geographical area of employers and workers that filled the requests for technical advice and information, the requests will be distributed to the competent territorial unit of labour inspection which will address them, on the basis of the nature of the requests, their urgency, their relevance in terms of the	

OSH draft Law provision's wording	Recommended wording	Rationale
	importance of the rights and obligations involved, the number of workers concretely affected, and the labour inspection priorities and resources.	
	Notwithstanding the above, labour inspectors may take the initiative to provide technical advice and information to employers, workers and their representatives, whenever and wherever they understand that such technical advices and information are needed, in order to ensure compliance with legal provisions.	
	The central executive authority that implements the state policy on state control of compliance with the labour legislation, on the basis of the information collected through complaints of employers and workers, statistics of occupational accidents and diseases, reports on inspection activity results and their plan of activities, may take the initiative of carrying out, alone or jointly with the most concerned workers' and employers' organizations, national, regional, sector-specific and thematic awareness-raising campaigns and information actions, targeting employers, workers, as well as their representatives and the society in general.	
Upon the visited entity's written application, labour inspectors may analyze the status of compliance with the labour legislation and provide recommendations on its application.	Upon an **employer's written request**, labour inspectors may analyze the status of compliance with the labour legislation and provide recommendations on its application.	Should be changed for clarity, as labour legislation is focused on the relations between employers and worker. Moreover, the mentioned analysis and recommendations may not necessarily imply carrying out an inspection visit.
When carrying out an inspection visit, state labour inspectors may, given the visited entity's consent, analyze information about the extent of	**Should be deleted.**	As the equality and non-discrimination between women and men in terms of employment and occupation falls into the remit of labour

OSH draft Law provision's wording	Recommended wording	Rationale
integration of the gender-based approaches which provide preconditions for ensuring equal rights and opportunities of women and men in the organization of activities of an enterprise, institution or organization, according to the form set forth by the specially designated central executive authority on ensuring equal rights and opportunities of women and men.		legislation, labour inspectors have legal competence for controlling and enforcing the concerned legal provisions. As such, they do not need the consent of the employer to verify their compliance with those legal provisions.
In order to prevent violations of the labour legislation, employers may initiate the conduct by labour inspectors of regular awareness-raising campaigns on the most effective means of complying with the labour legislation provisions, protecting and restoring the workers' labour rights.	In order to prevent violations of the labour legislation, employers may **request labour inspection to develop information actions or awareness-raising campaigns** on the most effective means of complying with the labour legislation provisions **and how to better protect and restore** workers' labour rights.	Should be changed, because the decision of labour inspection to develop such actions and campaigns will depend on the relevance of the requested interventions, their alignment with the labour inspection priorities and the availability of the budget and resources of the labour inspectorate.
The labour inspector shall themselves make a decision on the need to visit a visited entity to inform it and workers on the most effective means of complying with the labour legislation, and to monitor the status of compliance therewith, including as regards formalization of labour relations and in terms of ensuring equal rights and opportunities of women and men.	The labour inspector shall themselves make a decision on the need to visit **an employer or other entity to provide technical information and advice to the employer, workers or other entity** on the most effective means of complying with the labour legislation, and to monitor the status of compliance therewith, including as regards formalization of labour relations and in terms of ensuring equal rights and opportunities of women and men.	Should be changed for clarity, as labour legislation is focused on the relations between employers and worker.
Article 271. Particularities of exercising of the control of compliance with the labour legislation by local governments		
The labour inspectors of executive bodies of city councils in cities of oblast significance and of village, town and city councils of amalgamated territorial communities shall be covered by the	**The exercise of labour inspection functions by executive bodies of city councils in cities of oblast significance and of village, town and city councils of amalgamated territorial**	This paragraph should be changed, in order to ensure that exercise of functions of labour inspection by local self-government bodies are also aligned with ILO C081 and ILO C129.

OSH draft Law provision's wording	Recommended wording	Rationale
provisions concerning powers, main obligations, prohibitions, independence and liability of state labour inspectors provided for hereby.	**communities, as well as their labour inspectors, are subject to the provisions of Chapter XVIII of this Law.**	For that purpose, such exercise, as well as the labour inspectors of the local self-government bodies should meet the same requirements. Besides having the same powers and obligations, labour inspectors of the local self-government bodies should also be subject to other provisions of this law concerning, for example, being public officials, recruited solely on the basis of their qualifications for the performance of their duties, being provided with the necessary means, etc.
The head of the territorial state labour inspection body shall have the right to deny the local government registration of an inspection visit and/or desk inspection of the visited entity where the state labour inspection or a local government examined the same issues during the preceding six calendar months in the course of state control measures.	**Should be deleted.**	Should be deleted. This provision contradicts Article 16 of ILO C081 and Article 21 of ILO C129, according to which "workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions". Besides, the fact that one workplace was visited or object of a desk inspection less than 6 months ago does not mean that the employer is complying with legal provisions since then on…
4) replace item 48 of the List of authorization documents in economic activities approved by the Law of Ukraine "On the List of Authorization Documents in Economic Activities" (Vidomosti Verkhovnoi Rady Ukrainy, 2011, No. 47, Art. 532, as subsequently amended) with two items as follow:		
48^1.Certificate of appointment of an expert organization for carrying-out of hygienic studies of working conditions and/or carrying-out of technical inspection and expert examination of the work equipment and/or provision of	48^1.Certificate of appointment of an expert **entity on safety and health of workers**	Should be changed, in order to ensure the necessary consistency of this provision with sub-paragraphs 7) and 40) of Article 1, Article 15 and Section VIII of this law. It should also be changed, in order to simplify, by avoiding repeating the services that the expert entity may be appointed,

OSH draft Law provision's wording	Recommended wording	Rationale
opinions as regards the employer's ability of ensuring safe performance of high-risk works		as they are already enumerated in sub-paragraph 7) of paragraph 1 of Article 1.
5) add para. 31 to the first part of Article 23 of the Law of Ukraine "On the National Police" (Vidomosti Verkhovnoi Rady Ukrainy, 2015, No. 40-41, Art. 379 (as subsequently amended) as follows:		
"31) pursuant to a substantiated request of the central executive authority that implements the state policy on control of compliance with the labour legislation or its territorial bodies, take measures to ensure public security and order when labour inspectors carry out inspection visits as well as take measures aimed to remove any threats to life and health of labour inspectors.".	"31) pursuant to a substantiated request of the central executive authority that implements the state policy on control of compliance with the labour legislation or its territorial bodies, take measures to ensure public security and order when labour inspectors carry out inspection visits as well as take measures **aimed at removing** any threats to **the** life**, safety** and health of labour inspectors.".	To also ensure the **safety** of labour inspectors, besides their life and health.

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