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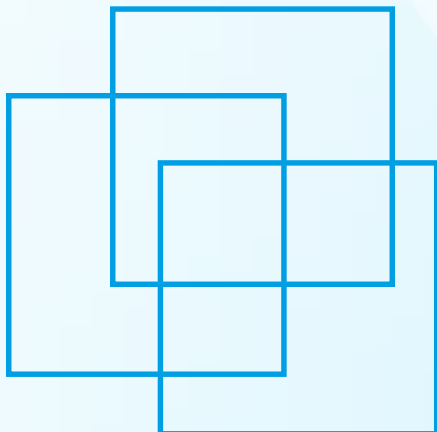


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Міжнародною організацією праці

«Зміцнення адміністрації праці
з метою покращення умов праці
і подолання незадекларованої праці»

TRAINING FOR THE MEMBERS OF THE WORKGROUP ON THE DEVELOPMENT OF THE TABLE OF CONCORDANCE BETWEEN THE NATIONAL LEGISLATION AND THE COUNCIL DIRECTIVE No. 91/533/EEC OF 14 OCTOBER 1991

«Enhancing the Labour Administration
Capacity to Improve Working Conditions
and Tackle Undeclared Work»



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the International Labour Organization

EU-ILO Project
ENHANCING THE LABOUR ADMINISTRATION CAPACITY
TO IMPROVE WORKING CONDITIONS AND TACKLE UNDECLARED WORK

**Training for the members of the workgroup on the development
of the Table of Concordance between the national legislation and
the Council Directive No. 91/533/EEC of 14 October 1991 on an employer's
obligation to inform employees of the conditions applicable to the contract or
employment relationship**

11 December 2017
room 1907, Ministry of Social Policy of Ukraine
8/10, Esplanadna Str.

*Consecutive English/Ukrainian interpretation provided

- | | |
|-------------|--|
| 09:00-09:30 | Registration of participants |
| 09:30-11:00 | Presentation of the Council Directive 91/533/EEC of 14 October 1991 and explanation of its key provisions

Antonio Santos , EU - ILO Project Manager |
| 11:00-11:30 | Coffee break |
| 11:30-12:30 | Resume of the training session |
| 12:30-13:30 | Lunch break |
| 13:30-15:00 | Resume of the training session (if necessary) |
| 15:00-16:00 | Presentation and discussion of the template of the Table of Concordance between the national legislation and the Council Directive 91/533/EEC

Antonio Santos , EU-ILO Project Manager |
| 16:00-17:00 | Development of the working group work plan (activities, timetable and responsible persons) for the execution of the Table of Concordance between the national legislation and the Council Directive 91/533/EEC |

Distribution materials:

1. Council Directive 91/533/EEC;
2. Table of the List of legislation to be revised;
3. Table of Concordance between the national legislation and the Council Directive 91/533/EEC;
4. PP Presentation on the provisions of the Council Directive 91/533/EEC.

Content

1. Council Directive № 89/391/EEC of 12 June 1989
2. Council Directive № 91/533/EEC of 14 October 1991
3. Presentation of the Council Directive № 91/533/EEC of 14 October 1991
4. Table 1 (List of revised legislation)
5. Table 2 (Table of concordance)
6. Table 3 (Table of concordance workplan)
7. Timetable for the Trainings on EU Directives

This document is meant purely as a documentation tool and the institutions do not assume any liability for its contents

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COUNCIL DIRECTIVE

of 12 June 1989

on the introduction of measures to encourage improvements in the safety and health of workers at work

(89/391/EEC)

(OJ L 183, 29.6.1989, p. 1)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003	L 284	1	31.10.2003
► <u>M2</u>	Directive 2007/30/EC of the European Parliament and of the Council of 20 June 2007	L 165	21	27.6.2007
► <u>M3</u>	Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008	L 311	1	21.11.2008

Corrected by:

- **C1** Corrigendum, OJ L 275, 5.10.1990, p. 42 (89/391/EEC)



COUNCIL DIRECTIVE

of 12 June 1989

on the introduction of measures to encourage improvements in the safety and health of workers at work

(89/391/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 118a thereof,

Having regard to the proposal from the Commission ⁽¹⁾, drawn up after consultation with the Advisory Committee on Safety, Hygiene and Health Protection at Work,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Article 118a of the Treaty provides that the Council shall adopt, by means of Directives, minimum requirements for encouraging improvements, especially in the working environment, to guarantee a better level of protection of the safety and health of workers;

Whereas this Directive does not justify any reduction in levels of protection already achieved in individual Member States, the Member State being committed, under the Treaty, to encouraging improvements in conditions in this area and to harmonizing conditions while maintaining the improvements made;

Whereas it is known that workers can be exposed to the effects of dangerous environmental factors at the work place during the course of their working life;

Whereas, pursuant to Article 118a of the Treaty, such Directives must avoid imposing administrative, financial and legal constraints which would hold back the creation and development of small and medium-sized undertakings;

Whereas the communication from the Commission on its programme concerning safety, hygiene and health at work ⁽⁴⁾ provides for the adoption of Directives designed to guarantee the safety and health of workers;

Whereas the Council, in its resolution of 21 December 1987 on safety, hygiene and health at work ⁽⁵⁾, took note of the Commission's intention to submit to the Council in the near future a Directive on the organization of the safety and health of workers at the work place;

Whereas in February 1988 the European Parliament adopted four resolutions following the debate on the internal market and worker protection; whereas these resolutions specifically invited the Commission to draw up a framework Directive to serve as a basis for more specific Directives covering all the risks connected with safety and health at the work place;

Whereas Member States have a responsibility to encourage improvements in the safety and health of workers on their territory;

⁽¹⁾ OJ No C 141, 30. 5. 1988, p. 1.

⁽²⁾ OJ No C 326, 19. 12. 1988, p. 102, and OJ No C 158, 26. 6. 1989.

⁽³⁾ OJ No C 175, 4. 7. 1988, p. 22.

⁽⁴⁾ OJ No C 28, 3. 2. 1988, p. 3.

⁽⁵⁾ OJ No C 28, 3. 2. 1988, p. 1.

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whereas taking measures to protect the health and safety of workers at work also helps, in certain cases, to preserve the health and possibly the safety of persons residing with them;

Whereas Member States' legislative systems covering safety and health at the work place differ widely and need to be improved; whereas national provisions on the subject, which often include technical specifications and/ or self-regulatory standards, may result in different levels of safety and health protection and allow competition at the expense of safety and health;

Whereas the incidence of accidents at work and occupational diseases is still too high; whereas preventive measures must be introduced or improved without delay in order to safeguard the safety and health of workers and ensure a higher degree of protection;

Whereas, in order to ensure an improved degree of protection, workers and/ or their representatives must be informed of the risks to their safety and health and of the measures required to reduce or eliminate these risks; whereas they must also be in a position to contribute, by means of balanced participation in accordance with national laws and/ or practices, to seeing that the necessary protective measures are taken;

Whereas information, dialogue and balanced participation on safety and health at work must be developed between employers and workers and/ or their representatives by means of appropriate procedures and instruments, in accordance with national laws and/ or practices;

Whereas the improvement of workers' safety, hygiene and health at work is an objective which should not be subordinated to purely economic considerations;

Whereas employers shall be obliged to keep themselves informed of the latest advances in technology and scientific findings concerning workplace design, account being taken of the inherent dangers in their undertaking, and to inform accordingly the workers' representatives exercising participation rights under this Directive, so as to be able to guarantee a better level of protection of workers' health and safety;

Whereas the provisions of this Directive apply, without prejudice to more stringent present or future Community provisions, to all risks, and in particular to those arising from the use at work of chemical, physical and biological agents covered by Directive 80/1107/EEC ⁽¹⁾, as last amended by Directive 88/642/EEC ⁽²⁾;

Whereas, pursuant to Decision 74/325/EEC ⁽³⁾, the Advisory Committee on Safety, Hygiene and Health Protection at Work is consulted by the Commission on the drafting of proposals in this field;

Whereas a Committee composed of members nominated by the Member States needs to be set up to assist the Commission in making the technical adaptations to the individual Directives provided for in this Directive.

HAS ADOPTED THIS DIRECTIVE:

⁽¹⁾ OJ No L 327, 3. 12. 1980, p. 8.

⁽²⁾ OJ No L 356, 24. 12. 1988, p. 74.

⁽³⁾ OJ No L 185, 9. 7. 1974, p. 15.



SECTION I

GENERAL PROVISIONS

Article 1

Object

1. The object of this Directive is to introduce measures to encourage improvements in the safety and health of workers at work.
2. To that end it contains general principles concerning the prevention of occupational risks, the protection of safety and health, the elimination of risk and accident factors, the informing, consultation, balanced participation in accordance with national laws and/ or practices and training of workers and their representatives, as well as general guidelines for the implementation of the said principles.
3. This Directive shall be without prejudice to existing or future national and Community provisions which are more favourable to protection of the safety and health of workers at work.

Article 2

Scope

1. This Directive shall apply to all sectors of activity, both public and private (industrial, agricultural, commercial, administrative, service, educational, cultural, leisure, etc.).
2. This Directive shall not be applicable where characteristics peculiar to certain specific public service activities, such as the armed forces or the police, or to certain specific activities in the civil protection services inevitably conflict with it.

In that event, the safety and health of workers must be ensured as far as possible in the light of the objectives of this Directive.

Article 3

Definitions

For the purposes of this Directive, the following terms shall have the following meanings:

- (a) worker: any person employed by an employer, including trainees and apprentices but excluding domestic servants;
- (b) employer: any natural or legal person who has an employment relationship with the worker and has responsibility for the undertaking and/ or establishment;
- (c) workers' representative with specific responsibility for the safety and health of workers: any person elected, chosen or designated in accordance with national laws and/ or practices to represent workers where problems arise relating to the safety and health protection of workers at work;
- (d) prevention: all the steps or measures taken or planned at all stages of work in the undertaking to prevent or reduce occupational risks.

Article 4

1. Member States shall take the necessary steps to ensure that employers, workers and workers' representatives are subject to the legal provisions necessary for the implementation of this Directive.

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2. In particular, Member States shall ensure adequate controls and supervision.

SECTION II**EMPLOYERS' OBLIGATIONS***Article 5***General provision**

1. The employer shall have a duty to ensure the safety and health of workers in every aspect related to the work.
2. Where, pursuant to Article 7 (3), an employer enlists competent external services or persons, this shall not discharge him from his responsibilities in this area.
3. The workers' obligations in the field of safety and health at work shall not affect the principle of the responsibility of the employer.
4. This Directive shall not restrict the option of Member States to provide for the exclusion or the limitation of employers' responsibility where occurrences are due to unusual and unforeseeable circumstances, beyond the employers' control, or to exceptional events, the consequences of which could not have been avoided despite the exercise of all due care.

Member States need not exercise the option referred to in the first subparagraph.

*Article 6***General obligations on employers**

1. Within the context of his responsibilities, the employer shall take the measures necessary for the safety and health protection of workers, including prevention of occupational risks and provision of information and training, as well as provision of the necessary organization and means.

The employer shall be alert to the need to adjust these measures to take account of changing circumstances and aim to improve existing situations.

2. The employer shall implement the measures referred to in the first subparagraph of paragraph 1 on the basis of the following general principles of prevention:
 - (a) avoiding risks;
 - (b) evaluating the risks which cannot be avoided;
 - (c) combating the risks at source;
 - (d) adapting the work to the individual, especially as regards the design of work places, the choice of work equipment and the choice of working and production methods, with a view, in particular, to alleviating monotonous work and work at a predetermined work-rate and to reducing their effect on health;
 - (e) adapting to technical progress;
 - (f) replacing the dangerous by the non-dangerous or the less dangerous;
 - (g) developing a coherent overall prevention policy which covers technology, organization of work, working conditions, social relationships and the influence of factors related to the working environment;

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- (h) giving collective protective measures priority over individual protective measures;
- (i) giving appropriate instructions to the workers.

3. Without prejudice to the other provisions of this Directive, the employer shall, taking into account the nature of the activities of the enterprise and/ or establishment:

- (a) evaluate the risks to the safety and health of workers, *inter alia* in the choice of work equipment, the chemical substances or preparations used, and the fitting-out of work places.

Subsequent to this evaluation and as necessary, the preventive measures and the working and production methods implemented by the employer must:

- assure an improvement in the level of protection afforded to workers with regard to safety and health,
 - be integrated into all the activities of the undertaking and/ or establishment and at all hierarchical levels;
- (b) where he entrusts tasks to a worker, take into consideration the worker's capabilities as regards health and safety;
 - (c) ensure that the planning and introduction of new technologies are the subject of consultation with the workers and/ or their representatives, as regards the consequences of the choice of equipment, the working conditions and the working environment for the safety and health of workers;
 - (d) take appropriate steps to ensure that only workers who have received adequate instructions may have access to areas where there is serious and specific danger.

4. Without prejudice to the other provisions of this Directive, where several undertakings share a work place, the employers shall cooperate in implementing the safety, health and occupational hygiene provisions and, taking into account the nature of the activities, shall coordinate their actions in matters of the protection and prevention of occupational risks, and shall inform one another and their respective workers and/ or workers' representatives of these risks.

5. Measures related to safety, hygiene and health at work may in no circumstances involve the workers in financial cost.

Article 7

Protective and preventive services

1. Without prejudice to the obligations referred to in Articles 5 and 6, the employer shall designate one or more workers to carry out activities related to the protection and prevention of occupational risks for the undertaking and/ or establishment.

2. Designated workers may not be placed at any disadvantage because of their activities related to the protection and prevention of occupational risks.

Designated workers shall be allowed adequate time to enable them to fulfil their obligations arising from this Directive.

3. If such protective and preventive measures cannot be organized for lack of competent personnel in the undertaking and/ or establishment, the employer shall enlist competent external services or persons.

4. Where the employer enlists such services or persons, he shall inform them of the factors known to affect, or suspected of affecting, the safety and health of the workers and they must have access to the information referred to in Article 10 (2).

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5. In all cases:

- the workers designated must have the necessary capabilities and the necessary means,
- the external services or persons consulted must have the necessary aptitudes and the necessary personal and professional means, and
- the workers designated and the external services or persons consulted must be sufficient in number

to deal with the organization of protective and preventive measures, taking into account the size of the undertaking and/ or establishment and/ or the hazards to which the workers are exposed and their distribution throughout the entire undertaking and/ or establishment.

6. The protection from, and prevention of, the health and safety risks which form the subject of this Article shall be the responsibility of one or more workers, of one service or of separate services whether from inside or outside the undertaking and/ or establishment.

The worker(s) and/ or agency(ies) must work together whenever necessary.

7. Member States may define, in the light of the nature of the activities and size of the undertakings, the categories of undertakings in which the employer, provided he is competent, may himself take responsibility for the measures referred to in paragraph 1.

8. Member States shall define the necessary capabilities and aptitudes referred to in paragraph 5.

They may determine the sufficient number referred to in paragraph 5.

Article 8

First aid, fire-fighting and evacuation of workers, serious and imminent danger

1. The employer shall:

- take the necessary measures for first aid, fire-fighting and evacuation of workers, adapted to the nature of the activities and the size of the undertaking and/ or establishment and taking into account other persons present,
- arrange any necessary contacts with external services, particularly as regards first aid, emergency medical care, rescue work and fire-fighting.

2. Pursuant to paragraph 1, the employer shall, *inter alia*, for first aid, fire-fighting and the evacuation of workers, designate the workers required to implement such measures.

The number of such workers, their training and the equipment available to them shall be adequate, taking account of the size and/ or specific hazards of the undertaking and/ or establishment.

3. The employer shall:

- (a) 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;
- (b) take action and give instructions to enable workers in the event of serious, imminent and unavoidable danger to stop work and/ or immediately to leave the work place and proceed to a place of safety;
- (c) save in exceptional cases for reasons duly substantiated, refrain from asking workers to resume work in a working situation where there is still a serious and imminent danger.

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4. Workers who, in the event of serious, imminent and unavoidable danger, leave their workstation and/ or a dangerous area may not be placed at any disadvantage because of their action and must be protected against any harmful and unjustified consequences, in accordance with national laws and/ or practices.

5. The employer shall ensure that all workers are able, in the event of serious and imminent danger to their own safety and/ or that of other persons, and where the immediate superior responsible cannot be contacted, to take the appropriate steps in the light of their knowledge and the technical means at their disposal, to avoid the consequences of such danger.

Their actions shall not place them at any disadvantage, unless they acted carelessly or there was negligence on their part.

*Article 9***Various obligations on employers**

1. The employer shall:

- (a) be in possession of an assessment of the risks to safety and health at work, including those facing groups of workers exposed to particular risks;
- (b) decide on the protective measures to be taken and, if necessary, the protective equipment to be used;
- (c) keep a list of occupational accidents resulting in a worker being unfit for work for more than three working days;
- (d) draw up, for the responsible authorities and in accordance with national laws and/ or practices, reports on occupational accidents suffered by his workers.

2. Member States shall define, in the light of the nature of the activities and size of the undertakings, the obligations to be met by the different categories of undertakings in respect of the drawing-up of the documents provided for in paragraph 1 (a) and (b) and when preparing the documents provided for in paragraph 1 (c) and (d).

*Article 10***Worker information**

1. The employer shall take appropriate measures so that workers and/ or their representatives in the undertaking and/ or establishment receive, in accordance with national laws and/ or practices which may take account, *inter alia*, of the size of the undertaking and/ or establishment, all the necessary information concerning:

- (a) the safety and health risks and protective and preventive measures and activities in respect of both the undertaking and/ or establishment in general and each type of workstation and/ or job;
- (b) the measures taken pursuant to Article 8 (2).

2. The employer shall take appropriate measures so that employers of workers from any outside undertakings and/ or establishments engaged in work in his undertaking and/ or establishment receive, in accordance with national laws and/ or practices, adequate information concerning the points referred to in paragraph 1 (a) and (b) which is to be provided to the workers in question.

3. The employer shall take appropriate measures so that workers with specific functions in protecting the safety and health of workers, or workers' representatives with specific responsibility for the safety and

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health of workers shall have access, to carry out their functions and in accordance with national laws and/ or practices, to:

- (a) the risk assessment and protective measures referred to in Article 9 (1) (a) and (b);
- (b) the list and reports referred to in Article 9 (1) (c) and (d);
- (c) the information yielded by protective and preventive measures, inspection agencies and bodies responsible for safety and health.

*Article 11***Consultation and participation of workers**

1. Employers shall consult workers and/ or their representatives and allow them to take part in discussions on all questions relating to safety and health at work.

This presupposes:

- the consultation of workers,
- the right of workers and/ or their representatives to make proposals,
- balanced participation in accordance with national laws and/ or practices.

2. Workers or workers' representatives with specific responsibility for the safety and health of workers shall take part in a balanced way, in accordance with national laws and/ or practices, or shall be consulted in advance and in good time by the employer with regard to:

- (a) any measure which may substantially affect safety and health;
- (b) the designation of workers referred to in Articles 7 (1) and 8 (2) and the activities referred to in Article 7 (1);
- (c) the information referred to in Articles 9 (1) and 10;
- (d) the enlistment, where appropriate, of the competent services or persons outside the undertaking and/ or establishment, as referred to in Article 7 (3);
- (e) the planning and organization of the training referred to in Article 12.

3. Workers' representatives with specific responsibility for the safety and health of workers shall have the right to ask the employer to take appropriate measures and to submit proposals to him to that end to mitigate hazards for workers and/ or to remove sources of danger.

4. The workers referred to in paragraph 2 and the workers' representatives referred to in paragraphs 2 and 3 may not be placed at a disadvantage because of their respective activities referred to in paragraphs 2 and 3.

5. Employers must allow workers' representatives with specific responsibility for the safety and health of workers adequate time off work, without loss of pay, and provide them with the necessary means to enable such representatives to exercise their rights and functions deriving from this Directive.

6. Workers and/ or their representatives are entitled to appeal, in accordance with national law and/ or practice, to the authority responsible for safety and health protection at work if they consider that the measures taken and the means employed by the employer are inadequate for the purposes of ensuring safety and health at work.

Workers' representatives must be given the opportunity to submit their observations during inspection visits by the competent authority.



Article 12

Training of workers

1. The employer shall ensure that each worker receives adequate safety and health training, in particular in the form of information and instructions specific to his workstation or job:

- on recruitment,
- in the event of a transfer or a change of job,
- in the event of the introduction of new work equipment or a change in equipment,
- in the event of the introduction of any new technology.

The training shall be:

- adapted to take account of new or changed risks, and
- repeated periodically if necessary.

2. The employer shall ensure that workers from outside undertakings and/ or establishments engaged in work in his undertaking and/ or establishment have in fact received appropriate instructions regarding health and safety risks during their activities in his undertaking and/ or establishment.

3. Workers' representatives with a specific role in protecting the safety and health of workers shall be entitled to appropriate training.

4. The training referred to in paragraphs 1 and 3 may not be at the workers' expense or at that of the workers' representatives.

The training referred to in paragraph 1 must take place during working hours.

The training referred to in paragraph 3 must take place during working hours or in accordance with national practice either within or outside the undertaking and/ or the establishment.

SECTION III

WORKERS' OBLIGATIONS

Article 13

1. It shall be the responsibility of each worker to take care as far as possible of his own safety and health and that of other persons affected by his ►**C1** acts or omissions ◀ at work in accordance with his training and the instructions given by his employer.

2. To this end, workers must in particular, in accordance with their training and the instructions given by their employer:

- (a) make correct use of machinery, apparatus, tools, dangerous substances, transport equipment and other means of production;
- (b) make correct use of the personal protective equipment supplied to them and, after use, return it to its proper place;
- (c) refrain from disconnecting, changing or removing arbitrarily safety devices fitted, e.g. to machinery, apparatus, tools, plant and buildings, and use such safety devices correctly;
- (d) immediately inform the employer and/ or the workers with specific responsibility for the safety and health of workers of any work situation they have reasonable grounds for considering represents a serious and immediate danger to safety and health and of any shortcomings in the protection arrangements;

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- (e) cooperate, in accordance with national practice, with the employer and/ or workers with specific responsibility for the safety and health of workers, for as long as may be necessary to enable any tasks or requirements imposed by the competent authority to protect the safety and health of workers at work to be carried out;
- (f) cooperate, in accordance with national practice, with the employer and/ or workers with specific responsibility for the 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 within their field of activity.

SECTION IV

MISCELLANEOUS PROVISIONS*Article 14***Health surveillance**

1. To ensure that workers receive health surveillance appropriate to the health and safety risks they incur at work, measures shall be introduced in accordance with national law and/ or practices.
2. The measures referred to in paragraph 1 shall be such that each worker, if he so wishes, may receive health surveillance at regular intervals.
3. Health surveillance may be provided as part of a national health system.

*Article 15***Risk groups**

Particularly sensitive risk groups must be protected against the dangers which specifically affect them.

*Article 16***Individual Directives — Amendments —****General scope of this Directive**

1. The Council, acting on a proposal from the Commission based on Article 118a of the Treaty, shall adopt individual Directives, *inter alia*, in the areas listed in the Annex.
2. This Directive and, without prejudice to the procedure referred to in Article 17 concerning technical adjustments, the individual Directives may be amended in accordance with the procedure provided for in Article 118a of the Treaty.
3. The provisions of this Directive shall apply in full to all the areas covered by the individual Directives, without prejudice to more stringent and/ or specific provisions contained in these individual Directives.

▼ **M3***Article 17***Committee procedure**

1. The Commission shall be assisted by a committee to make purely technical adjustments to the individual directives provided for in Article 16(1) in order to take account of:

- (a) the adoption of directives in the field of technical harmonisation and standardisation;
- (b) technical progress, changes in international regulations or specifications and new findings.

Those measures, designed to amend non-essential elements of the individual directives, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in paragraph 2. On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in paragraph 3.

2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3. Where reference is made to this paragraph, Article 5a(1), (2), (4) and (6) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

▼ **M2***Article 17a***Implementation reports**

1. Every five years, the Member States shall submit a single report to the Commission on the practical implementation of this Directive and individual Directives within the meaning of Article 16(1), indicating the points of view of the social partners. The report shall assess the various points related to the practical implementation of the different Directives and, where appropriate and available, provide data disaggregated by gender.

2. The structure of the report, together with a questionnaire specifying its content, shall be defined by the Commission, in cooperation with the Advisory Committee on Safety and Health at Work.

The report shall include a general part on the provisions of this Directive relating to the common principles and points applicable to all of the Directives referred to in paragraph 1.

To complement the general part, specific chapters shall deal with implementation of the particular aspects of each Directive, including specific indicators, where available.

3. The Commission shall submit the structure of the report, together with the above-mentioned questionnaire specifying its content, to the Member States at least six months before the end of the period covered by the report. The report shall be transmitted to the Commission within 12 months of the end of the five-year period that it covers.

4. Using these reports as a basis, the Commission shall evaluate the implementation of the Directives concerned in terms of their relevance, of research and of new scientific knowledge in the various fields in question. It shall, within 36 months of the end of the five-year period, inform the European Parliament, the Council, the European Economic and Social Committee and the Advisory Committee on Safety and Health at Work of the results of this evaluation and, if necessary, of any initiatives to improve the operation of the regulatory framework.

5. The first report shall cover the period 2007 to 2012.

▼ B*Article 18***Final provisions**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1992.

They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they have already adopted or adopt in the field covered by this Directive.

▼ M2
_____**▼ B***Article 19*

This Directive is addressed to the Member States.

*ANNEX***List of areas referred to in Article 16 (1)**

- Work places
- Work equipment
- Personal protective equipment
- Work with visual display units
- Handling of heavy loads involving risk of back injury
- Temporary or mobile work sites
- Fisheries and agriculture

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 14 October 1991

on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship

(91/533/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the development, in the Member States, of new forms of work has led to an increase in the number of types of employment relationship;

Whereas, faced with this development, certain Member States have considered it necessary to subject employment relationships to formal requirements; whereas these provisions are designed to provide employees with improved protection against possible infringements of their rights and to create greater transparency on the labour market;

Whereas the relevant legislation of the Member States differs considerably on such fundamental points as the requirement to inform employees in writing of the main terms of the contract or employment relationship;

Whereas differences in the legislation of Member States may have a direct effect on the operation of the common market;

Whereas Article 117 of the Treaty provides for the Member States to agree upon the need to promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonization while the improvement is being maintained;

Whereas point 9 of the Community Charter of Fundamental Social Rights for Workers, adopted at the Strasbourg European Council on 9 December 1989 by the Heads of State and Government of 11 Member States, states:

'The conditions of employment of every worker of the European Community shall be stipulated in laws, a collective agreement or a contract of employment, according to arrangements applying in each country.'

Whereas it is necessary to establish at Community level the general requirement that every employee must be provided with a document containing information on the essential elements of his contract or employment relationship;

Whereas, in view of the need to maintain a certain degree of flexibility in employment relationships, Member States should be able to exclude certain limited cases of employment relationship from this Directive's scope of application;

Whereas the obligation to provide information may be met by means of a written contract, a letter of appointment or one or more other documents or, if they are lacking, a written statement signed by the employer;

Whereas, in the case of expatriation of the employee, the latter must, in addition to the main terms of his contract or employment relationship, be supplied with relevant information connected with his secondment;

⁽¹⁾ OJ No C 24, 31. 1. 1991, p. 3.

⁽²⁾ OJ No C 240, 16. 9. 1991, p. 21.

⁽³⁾ OJ No C 159, 17. 6. 1991, p. 32.

Whereas, in order to protect the interests of employees with regard to obtaining a document, any change in the main terms of the contract or employment relationship must be communicated to them in writing;

Whereas it is necessary for Member States to guarantee that employees can claim the rights conferred on them by this Directive;

Whereas Member States are to adopt the laws, regulations and legislative provisions necessary to comply with this Directive or are to ensure that both sides of industry set up the necessary provisions by agreement, with Member States being obliged to take the necessary steps enabling them at all times to guarantee the results imposed by this Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Scope

1. This Directive shall apply to every paid employee having a contract or employment relationship defined by the law in force in a Member State and/or governed by the law in force in a Member State.

2. Member States may provide that this Directive shall not apply to employees having a contract or employment relationship:

- (a) — with a total duration not exceeding one month, and/or
- with a working week not exceeding eight hours; or
- (b) of a casual and/or specific nature provided, in these cases, that its non-application is justified by objective considerations.

Article 2

Obligation to provide information

1. An employer shall be obliged to notify an employee to whom this Directive applies, hereinafter referred to as 'the employee', of the essential aspects of the contract or employment relationship.

2. The information referred to in paragraph 1 shall cover at least the following:

- (a) the identities of the parties;
- (b) the place of work; where there is no fixed or main place of work, the principle that the employee is employed at various places and the registered place of

business or, where appropriate, the domicile of the employer;

- (c) (i) the title, grade, nature or category of the work for which the employee is employed; or
 - (ii) a brief specification or description of the work;
 - (d) the date of commencement of the contract or employment relationship;
 - (e) in the case of a temporary contract or employment relationship, the expected duration thereof;
 - (f) the amount of paid leave to which the employee is entitled or, where this cannot be indicated when the information is given, the procedures for allocating and determining such leave;
 - (g) the length of the periods of notice to be observed by the employer and the employee should their contract or employment relationship be terminated or, where this cannot be indicated when the information is given, the method for determining such periods of notice;
 - (h) the initial basic amount, the other component elements and the frequency of payment of the remuneration to which the employee is entitled;
 - (i) the length of the employee's normal working day or week;
 - (j) where appropriate;
 - (i) the collective agreements governing the employee's conditions of work;
 - or
 - (ii) in the case of collective agreements concluded outside the business by special joint bodies or institutions, the name of the competent body or joint institution within which the agreements were concluded.
3. The information referred to in paragraph 2 (f), (g), (h) and (i) may, where appropriate, be given in the form of a reference to the laws, regulations and administrative or statutory provisions or collective agreements governing those particular points.

Article 3

Means of information

1. The information referred to in Article 2 (2) may be given to the employee, not later than two months after the commencement of employment, in the form of:

- (a) a written contract of employment; and/or
- (b) a letter of engagement; and/or
- (c) one or more other written documents, where one of these documents contains at least all the information referred to in Article 2 (2) (a), (b), (c), (d), (h) and (i).

2. Where none of the documents referred to in paragraph 1 is handed over to the employee within the prescribed period, the employer shall be obliged to give the employee, not later than two months after the commencement of employment, a written declaration signed by the employer and containing at least the information referred to in Article 2 (2).

Where the document(s) referred to in paragraph 1 contain only part of the information required, the written declaration provided for in the first subparagraph of this paragraph shall cover the remaining information.

3. Where the contract or employment relationship comes to an end before expiry of a period of two months as from the date of the start of work, the information provided for in Article 2 and in this Article must be made available to the employee by the end of this period at the latest.

Article 4

Expatriate employees

1. Where an employee is required to work in a country or countries other than the Member State whose law and/or practice governs the contract or employment relationship, the document(s) referred to in Article 3 must be in his/her possession before his/her departure and must include at least the following additional information :

- (a) the duration of the employment abroad ;
- (b) the currency to be used for the payment of remuneration ;
- (c) where appropriate, the benefits in cash or kind attendant on the employment abroad ;
- (d) where appropriate, the conditions governing the employee's repatriation.

2. The information referred to in paragraph 1 (b) and (c) may, where appropriate, be given in the form of a reference to the laws, regulations and administrative or statutory provisions or collective agreements governing those particular points.

3. Paragraphs 1 and 2 shall not apply if the duration of the employment outside the country whose law and/or practice governs the contract or employment relationship is one month or less.

Article 5

Modification of aspects of the contract or employment relationship

1. Any change in the details referred to in Articles 2 (2) and 4 (1) must be the subject of a written document to be given by the employer to the employee at the earliest opportunity and not later than one month after the date of entry into effect of the change in question.

2. The written document referred to in paragraph 1 shall not be compulsory in the event of a change in the laws, regulations and administrative or statutory provisions or collective agreements cited in the documents referred to in Article 3, supplemented, where appropriate, pursuant to Article 4 (1).

Article 6

Form and proof of the existence of a contract or employment relationship and procedural rules

This Directive shall be without prejudice to national law and practice concerning :

- the form of the contract or employment relationship,
- proof as regards the existence and content of a contract or employment relationship,
- the relevant procedural rules.

Article 7

More favourable provisions

This Directive shall not affect Member States' prerogative to apply or to introduce laws, regulations or administrative provisions which are more favourable to employees or to encourage or permit the application of agreements which are more favourable to employees.

Article 8

Defence of rights

1. Member States shall introduce into their national legal systems such measures as are necessary to enable all employees who consider themselves wronged by failure to comply with the obligations arising from this Directive to pursue their claims by judicial process after possible recourse to other competent authorities.

2. Member States may provide that access to the means of redress referred to in paragraph 1 are subject to the notification of the employer by the employee and the failure by the employer to reply within 15 days of notification.

However, the formality of prior notification may in no case be required in the cases referred to in Article 4, neither for workers with a temporary contract or employment relationship, nor for employees not covered by a collective agreement or by collective agreements relating to the employment relationship.

Article 9

Final provisions

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive no later than 30 June 1993 or shall ensure by that date that the employers' and workers' representatives

introduce the required provisions by way of agreement, the Member States being obliged to take the necessary steps enabling them at all times to guarantee the results imposed by this Directive.

They shall forthwith inform the Commission thereof.

2. Member States shall take the necessary measures to ensure that, in the case of employment relationships in existence upon entry into force of the provisions that they adopt, the employer gives the employee, on request, within two months of receiving that request; any of the documents referred to in Article 3, supplemented, where appropriate, pursuant to Article 4 (1).

3. When Member States adopt the measures referred to in paragraph 1, such measures shall contain a reference to this Directive or shall be accompanied by such reference

on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

4. Member States shall forthwith inform the Commission of the measures they take to implement this Directive.

Article 10

This Directive is addressed to the Member States.

Done at Luxembourg, 14 October 1991.

For the Council

The President

B. de VRIES



Проект фінансується
Європейським Союзом



Проект виконується
Міжнародною організацією праці

Директива Ради № 91/533/ЄЕС від 14 жовтня 1991 р. про обов'язок роботодавця інформувати своїх службовців про умови, що застосовуються до трудового договору чи трудових відносин

Council Directive No. 91/533/EEC, of 14 October 1991, on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship

Проект ЄС-МОП «Зміцнення адміністрації праці з метою покращення умов праці і подолання незадекларованої праці»

EU-ILO Project «Enhancing the labour administration capacity to improve working conditions and tackle undeclared work

Антоніу Сантуш / António Santos
Менеджер проекту / Project manager

www.ilo.org/UkraineEUProject

Contents:

- Why Directive No. 91/533/EEC?
- What does and doesn't do the Directive 91/533/EEC?
- Why aligning the Ukrainian legislation with Directive No. 91/533/EEC?
- EU Council Directive No. 91/533/EEC:
 - ✓ Scope (art. 1.º)
 - ✓ Obligation to provide information (art. 2.º)
 - ✓ Means of information (art. 3.º)
 - ✓ Expatriate employees (art. 4.º)
 - ✓ Modification of aspects of the contract or employment relationship (art. 5.º)
 - ✓ Form and proof of the existence of a contract or employment relationship and procedural rules (art. 6.º)
 - ✓ More favourable provisions (art. 7.º)
 - ✓ Defence of rights (art. 8.º)
 - ✓ Final provisions (art. 9.º)
- List of revised legislation within the scope of the Table of Concordance draft
- Table of concordance between Ukrainian legislation and the EU Directive No. 91/533/EEC.

Why Directive No. 91/533/EEC?

1. To **improve** the working conditions and the **standard of living** for workers;
2. The need to **subject employment relationships to formal requirements** (in the context of the development of new forms of work, that led to an increase in the number of types of employment relationship), in order to:
 - Provide **employees** with **improved protection** against possible infringements of their rights; and
 - Create **greater transparency** on the **labour market**.

Why Directive No. 91/533/EEC?

4. To **harmonize** the different **legislation** on the **requirement to inform employees** in writing of the main terms of the contract or employment relationship (as they **have a direct effect** on the operation of the **common market**);
5. To **establish** at **Community level** the general **requirement** that **every employee** must be **provided** with a **document containing information** on the essential elements of his contract or employment relationship.

What does and doesn't do the Directive No. 91/533/EEC ?

1. Lays down the employers' obligation to notify the employees of the essential aspects of the contract or employment relationship, in particular;

- Type of required information;
- Means of information;
- Expatriate employees;
- Modification of aspects of the contract or employment relationship;
- Defense of the workers' rights.

2. This Directive shall be without prejudice to national law and practice, concerning (art.º 6.º):

- The **form of the contract** or employment relationship;
- **Proof** as regards the **existence and content of a contract** or employment relationship;
- The relevant **procedural rules**;

3. This Directive shall not affect Member States' prerogative to apply or to introduce laws, regulations or administrative provisions which are more favorable to employees or to encourage or permit the application of agreements which are more favorable to employees (art.º 7.º).

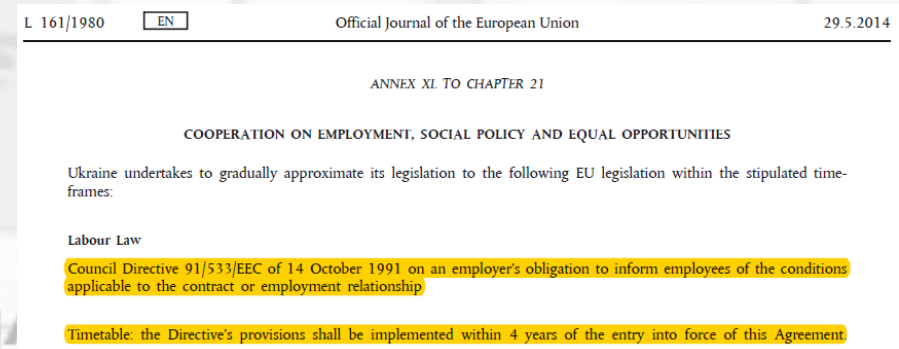
Why aligning the Ukrainian legislation with Directive No. 91/533/EEC?

1. To **improve the working conditions** in Ukraine;
2. To **improve workers' protection** against possible infringements of their rights;
3. To **improve transparency** in the labour market and the **fight against undeclared work**;
4. To **ensure the effective implementation** of the EU-Ukraine Association Agreement

(AA): This directive **shall be implemented within 4 years** of the AA entry into force, i.e.,

by 31 August 2021 (cf. [articles 419.º and 420.º to 424.º of chapter 21, p. 156-157; and](#)

[Annex XL to chapter 21, p. 1980](#)).



- **Applies** to every **paid employee having a contract or employment relationship**;
- It **can be foreseen** that the provisions of this Directive **do not apply to** employees having a contract or employment relationship :
 - ✓ With a total **duration not exceeding 1 month**;
 - ✓ With a **working week not exceeding 8 hours**;
 - ✓ Of a **casual and/or specific nature** (provided, in these cases, that its non-application is **justified by objective considerations**).

Obligation to provide information (art. 2.º)

The **employer** shall be **obliged to notify the employees** of the **essential aspects** of the contract or employment relationship, **namely** on the following :

1. The **identities** of the parties ;
2. The **place of work**;
3. When there is **no fixed or main place of work**: the **principle** that the **employee is employed at various places** and the **registered place of business** or, where appropriate, the **domicile of the employer**;
4. The **title, grade, nature or category of the work** for which the employee is employed or a **brief specification or description of the work**;
5. The **date of commencement** of the contract or employment relationship;
6. In the case of a **temporary contract** or employment relationship, **its expected duration**.

Obligation to provide information (art. 2.º)

7. **Amount of paid leave** or, where this cannot be indicated, the procedures for allocating and determining it (may be a reference to the respective provisions of the applicable laws, regulations, administrative or statutory provisions or collective agreements);
8. Period of **prior notice to be observed for the termination** of the contract or employment relationship or the method for determining it (may be a reference to the respective provisions of the applicable laws, regulations, administrative or statutory provisions or collective agreements);;
9. **Initial remuneration** and the **frequency of its payments**; (may be a reference to the respective provisions of the applicable laws, regulations, administrative or statutory provisions or collective agreements);
10. Length of the **employee's normal working day or week** (may be a reference to the respective provisions of the applicable laws, regulations, administrative or statutory provisions or collective agreements);
11. **Collective agreements** governing the employee's conditions of work **or the name of the competent body or joint institution**, within which any applicable collective agreements outside the business have been concluded (when applicable).

That information should be provided to the employee not later than 2 months after the commencement of employment (even when the contract or employment relation expires before), through the following **forms**:

- **Written contract** of employment;
- **Letter of engagement**;
- One or more **other written documents, where one** of these documents **contains**, at least: identities of the parties; place of work, registered place of business or domicile of the employer; title, grade, nature or category of the work, or brief specification or description of the work; date of commencement; initial remuneration and its frequency of payment; and employee's normal working day or week;
- **Written declaration signed by the employer and containing all the referred information, or the remaining one**, if missing.

In case of **employees required to work** for more than 1 month in **other country** (than the one which law regulates the contract), they **must have in their possession, before departure**, the **document(s) with the referred information**, which **must also include**, at least, the following additional information:

- **Duration** of the **employment abroad**;
- **Currency** to be used for the payment of **remuneration** (may be a reference to the respective provisions of the applicable laws, regulations, administrative or statutory provisions or collective agreements);
- **Benefits** (in cash or kind) **attendant on the employment abroad**, where appropriate (may be a reference to the respective provisions of the applicable laws, regulations, administrative or statutory provisions or collective agreements);
- **Conditions** governing the **employee's repatriation** (where appropriate).

Modification of aspects of the contract or employment relationship (art. 5.º)

Directive 91/533/EEC

Any change in the details **of the mandatory information** referred to above:

- Must be the **subject of a written document**;
- To be **given by the employer** to the employee at the **earliest opportunity** and **not later than one month after** the date of **entry into effect of the change**;
- That is **not be mandatory** if the **change** occurred in the **laws**, regulations, administrative or statutory provisions or collective agreements **cited in the previous information**.

- Member States :
 - ✓ Shall **introduce into their national legal systems** the **possibility** of **all employees** (who consider themselves wronged by failure to comply with the obligations arising from this Directive) to **pursue their claims by judicial process** (after possible recourse to other competent authorities);
 - ✓ **May provide** that **access** to the above **means of redress** are **subject** to the **prior notification** of the employer by the employee and the **failure** by the **employer** to **reply within 15 days**;
- However, the formality of **prior notification** cannot be required:
 - ✓ In the case of **expatriate employees**;
 - ✓ To workers with a **temporary contract or employment relationship**;
 - ✓ To **employees not covered by a collective agreement** or by collective agreements relating to the employment relationship.

- **Ukraine shall:**

- ✓ **Adopt the laws, regulations and administrative provisions necessary to comply with this Directive, no later than 31 August 2021; or**
- ✓ **Ensure by that date that the employers' and workers' representatives introduce the required provisions by way of agreement, being Ukraine obliged to guarantee the results of this Directive;**
- ✓ **Forthwith inform the Commission thereof;**
- ✓ **Ensure that, in the case of employment relationships in existence upon entry into force of the provisions that they adopt, the employer gives the employee, on request, within 2 months of receiving that request, the written mandatory information mentioned above;**
- ✓ **Inform the Commission of the measures they take to implement this Directive.**

LIST OF REVISED LEGISLATION

[Council Directive No. 91/533/EEC, of 14 October 1991, on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship](#)

CODE (NUMBER OF THE LEGISLATIVE ACT)	LEGISLATIVE DOCUMENT						LAST AMENDEMENTS INTRODUCED	
	ISSUER	LEGISLATIVE DOCUMENT	NUMBER	DATE OF ADOPTION	NAME/SUBJECT OF THE LEGAL ACT	DATE OF ENTRY INTO FORCE	DATE OF LAST AMENDMENT	LEGAL ACT
1. Ukrainian Parliament (Verkhovna Rada)								
1,1								
1,2								
1,3								
1,4								
1,5								
1,6								
1,7								
1,8								
1,9								
2. President of Ukraine								
2,1	President of Ukraine	Decree/Order						
2,2								
2,3								
2,4								
2,5								
2,6								
2,7								
2,8								
2,9								
3. Cabinet of Ministers of Ukraine								
3,1	Ministers council	Law/Regulatory Decree/Decree- Law/Resolution/Order						
3,2								
3,3								
3,4								
3,5								
3,6								
3,7								
3,8								
3,9								
4. Ministries and other state authorities								
4,1	Ministry of....	Ordinance/Order/Regulation/Instruction						
4,2								
4,3								
4,4								
4,5								
4,6								
4,7								
4,8								
4,9								

TABLE OF CONCORDANCE

Council Directive No. 91/533/EEC, of 14 October 1991, on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship

[illegible]

TABLE OF CONCORDANCE

Council Directive No. 91/533/EEC, of 14 October 1991, on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship

[illegible]

TABLE OF CONCORDANCE WORKPLAN

Council Directive No.91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship

[illegible]

EU-ILO Project
“Enhancing the labour administration capacity to improve working conditions and tackle undeclared work”
Ukraine
Timetable for activities 1.1.2-1.1.4 under the Outcome 1

	27-30 November 2017			4-8 December 2017					11-15 December 2017	18-22 December 2017
Trainings on EU directives and development of the tables of concordance										
EU Directive	28.11.17	29.11.17	30.11.17	04.12.17	05.12.17	06.12.17	07.12.17	8.12.17	11.12.17	
Directive 89/391	training									
Development of the table № 2 by workgroup for Dir. 89/391										
Directive 89/654		training								
Development of the table № 2 by workgroup for Dir. 89/654										
Директива 2009/104			training							
Development of the table № 2 by workgroup for Dir. 2009/104										
Directive 89/656				training						
Development of the table № 2 by workgroup for Dir. 89/656										
Directive 2003/88					training					
Development of the table № 2 by workgroup for Dir. 2003/88										
Directive 91/533									training	
Development of the table № 2 by workgroup for Dir. 91/533										

Finalization of the tables of concordance						
	25-30 December 2017	8-12 January 2018	15-19 January 2018	22-26 January 2018	29-31 January 2018	February 2018
Finalization of the tables by MSP and SLS and submission to EU-ILO Project						
Translation of the tables and submission to the experts						
Studying of the table by the experts						
Tripartite workshop based on the results of the workgroups						