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## APPROXIMATION OF LEGISLATION OF THE EUROPEAN UNION AND UKRAINE IN THE FIELD OF LABOR PROTECTION: THE RISKS AND ADVANTAGES

**Purpose.** To assess the risks and advantages of approximation of the laws of the European Union and Ukraine in the field of labor protection, as well as to develop specific steps for the implementation of the strategic goals of the European Framework Directive on Occupational Safety and Health in the legal field of Ukraine.

**Methodology.** To achieve this goal, the authors used a set of methods: a) theoretical ones: analysis, synthesis, systematization and generalization; b) empirical ones: the study of traditions, the method of expert judgment and self-assessment.

**Findings.** The authors reinterpreted the right of Ukrainians to “proper, safe and healthy working conditions” enshrined in Article 43 of the Constitution of Ukraine, in accordance with the standards of the European legislation, and proposed the most effective way of implementing the strategic goals of the European Framework Directive on Occupational Safety and Health in the legal field of Ukraine. According to the authors, the newly created Center for the Implementation of the Framework Directive on Occupational Safety and Health into Ukrainian legislation is the driving and guiding force for approximation of the laws of the European Union and Ukraine in the field of labor protection. This new institution fulfills goals and objectives similar the European Agency for Safety and Health at Work. The recommendations of the Center should be used as the basis for the formation of policies and legislation on occupational safety and health in Ukraine.

**Originality.** The authors examined the risks and advantages of approximation of the legislation of the European Union and Ukraine in the field of labor protection and developed a sequence of implementation of the strategic goals of the European Framework Directive on Occupational Safety and Health in the legal field of Ukraine.

**Practical value.** Rapprochement of the legislation of the European Union and Ukraine in the field of labor protection will increase the protection of safety and hygiene of workers in accordance with the standards of the European Union, the World Health Organization, the International Labor Organization, the Pan American Health Organization, the International Maritime Organization, and others. The specific steps proposed by the authors for the implementation of the strategic goals of the European Framework Directive on Occupational Safety and Health into the legal field of Ukraine will allow modernizing the legislation of Ukraine in the field of occupational safety and health efficiently and in the short-term.

**Keywords:** *labor protection, safety and health, approximation of legislation, Framework Directive*

**Introduction.** In 2014, “Association Agreement between the European Union and the European Atomic Energy Community and their member states, of the one part, and Ukraine, of the other part” was signed between Ukraine and the European Union [1]. This document legalized a new strategy for the development of the Ukrainian state: the transition from partnership and cooperation to political association and economic integration into the European Union.

The receipt of status of the associated member of the European Union became the main foreign-policy priority of Ukraine in the medium-term prospect of its development. For the achievement of this aim the process of integration into the European political, informative, economic, and legal space was activated in Ukraine [2].

In this article, the authors will consider the key features of the approximation of the legislation of the European Union and Ukraine in the field of labor protection. The authors will note the risks associated with the forced revision of the key provisions of labor protection in Ukraine in accordance with the European directives, standards, and legislation, as well as the advantages of harmonization of the two legislations. Based on the results obtained, the authors will propose a package of specific actions to implement the strategic objectives of the Framework Directive on Occupational Safety and Health in the legal field of Ukraine.

**Results.** Currently, the legal regulation of labor protection in Ukraine is based on five key laws:

1. The Constitution of Ukraine [3].
2. The Law of Ukraine “On Labor Protection” [4].
3. The Labor Code of Ukraine [5].
4. The Law of Ukraine “On Mandatory State Social Insurance against Industrial Accident and Occupational Disease that Caused Disability” [6].
5. The Law of Ukraine “On Adopting the National Social Program for Improvement of Safety, Workplace Hygiene and Production Environment in 2014–2018” [7].

All of the listed above laws ensure the right of a citizen of Ukraine, which is formulated in Article 43 of the Constitution of Ukraine as follows: “Everyone has the right to adequate, safe, and healthy working conditions and to a salary not lower than that determined by the law” [3].

The Association Agreement of Ukraine with EU provides for the harmonization of the Ukrainian legislation with the legislation of the European Union. Ukrainian lawyers face with the task of rethinking the right to “appropriate, safe, and healthy working conditions” in accordance with the standards of the European legislation, as well as in a short time to bridge the difference in the legal regulation of labor protection in Ukraine and the European Union.

The main regulator of labor protection policies and laws in the European Union is “European Agency for Safety and Health at Work”, or in the terminology used in the Ukrainian legal field

“European Agency for Labor Protection” [8]. The Agency was established in 1994 by European Union Regulation No 2062/94 [9]. The main goal of creating the “European Agency for Labor Protection” is to improve working conditions and protect the safety and health of workers in the workplace in accordance with the European Union strategy and action programs.

Employees of the “European Agency for Labor Protection” analyze the specifics of legal support for labor protection in the states of the European Union, on the basis of which they give recommendations on the unification of laws and their development in accordance with the policies of the European Union. Agency recommendations are binding not only on the states of the European Union, but also on the states that have signed association agreements with the European Union. Therefore, the combined potential of scientific reflection of Ukrainian legal scholars should be aimed at studying the documentation and experience that is accumulated in the Agency.

“European Agency for Safety and Health at Work” performs the following tasks [8]:

1. It collects, analyzes and disseminates technical, scientific and economic information in the EU countries.
2. It collects and analyzes technical, scientific, and economic information on research in the field of occupational safety and health and other research activities that include aspects related to safety and health at work.
3. It develops and supports the cooperation and exchange of information and experience between the states of the European Union in the field of occupational safety and health, including information on training programs in this area.
4. It organizes conferences, seminars, and exchanges of experts in the field of safety and health.
5. It provides governments with the objective technical, scientific, and economic information necessary to develop and implement sound and effective policies to protect the safety and health of workers. The information provided by the Agency is used as the basis for legislative initiatives in the field of protecting the safety and health of workers.
6. It creates and develops a coordinated labor protection network in the European Union, which includes national, public, and international organizations.
7. The Agency collects and provides information on occupational safety and health issues to the third countries and international organizations, including WHO, ILO, PAHO, IMO, and so on.
8. The Agency provides technical, scientific, and economic information on the methods and instruments for the implementation of the preventive measures. The Agency identifies the best practices and promotes preventive measures, with particular attention to the specific problems of small and medium-sized enterprises.
9. The Agency develops strategies and action programs on protection of occupational safety and health.
10. It provides accessibility and understanding of the information distributed by end users.

The analysis of the legal base of the European Agency on Safety and Occupational and Ukrainian legislation allows setting a number of fundamental divergences that should be comprehended by the Ukrainian legists and offered the sequence of their overcoming.

First of all, the inconsistency of the key terminology, which is used in directives, laws, and regulations of the European Union and Ukraine, attracts attention.

First, for the states of the European Union, the key term is “Occupational safety and health”. The European Union Framework Directive in this area is called “The European Framework Directive on Safety and Health at Work (Directive 89/391 EEC)” [10]. It is the basis of European labor protection legislation. Member States of the European Union may adopt stricter rules for the protection of workers when incorporating EU directives into national law, but the key terminology set forth in the Framework Directive remains unchanged.

In the legislation of Ukraine, another term is used as a key one – “labor protection”. “Labor protection” is not the only defining term. Along with it, the Laws of Ukraine use two other terms: “occupational safety” and “occupational safety and health”. Ukrainian legist Yu. Dreval revealed the features of the use of three terms in the Ukrainian law [11]. The meanings of these terms not only complement each other and intersect in different laws of Ukraine, but in particular they contradict each other. Below we give examples of inconsistency of these terms.

Second, four terms are the key terms in the Framework Directive on Occupational Safety and Health: “worker”, “employer”, “workers’ representative with specific responsibility for the safety and health of workers”, “prevention” [10]. In the Law of Ukraine “On Labor Protection”, which implements the constitutional rights of workers to protect their life and health in the course of work, there are three key terms: “labor protection”, “employer” and “employee” [4].

Let us pay attention to three important details:

*Firstly*, to different emphasis in the Framework Directive and the Law of Ukraine. In the Framework Directive, “worker” takes the first place, while in the Law of Ukraine this term is placed last. Looking ahead, we note that such a sequence is not random. The legislation of the European Union to a greater extent protects the “worker”, while the laws of Ukraine define more the rights of the “employer”, whose role has been performed by the state for a long time (thereon we will stop below).

*Secondly*, we emphasize the absence of the definition of the key term “workers’ representative with specific responsibility for the safety and health of workers” in the Law of Ukraine “On Labor Protection”. In practice, it is expressed in a formal attitude to this important area of activity, as well as in irresponsibility and impunity in cases of violation of labor protection conditions.

*Thirdly*, we should pay attention to the difference in terms used in Article 43 of the Constitution of Ukraine and Article 1 of the Law of Ukraine “On Labor Protection”. The terms that are used in the Constitution of Ukraine and the Law of Ukraine do not coincide. In fact, the Law of Ukraine, which establishes “basic regulations for the implementation of the constitutional right of workers to protect their life and health in the course of their work, to proper, safe and healthy working conditions”, and so on uses and reveals the meanings of terms that are not used in the Constitution of Ukraine.

A comparison of the legislation of the European Union and Ukraine in the field of labor protection reveals a significant difference in the meanings of the key terms.

Firstly, in the Framework Directive, the term “worker” is determined as “any person employed by an employer, including trainees and apprentices but excluding domestic servants” [10]. In the Law of Ukraine “On Labor Protection”, the “worker” is “a person who works at an enterprise, organization, institution and performs duties or functions under an employment contract [4]. As we see, in the Law of Ukraine, “trainees” and “apprentices” are not considered as “workers” and, accordingly, the Law is not applied to them.

This gap in the Ukrainian law makes “trainees” and “apprentices” defenseless in the legal field. It also allows the “employers” to “circumvent” the provisions of the law by hiring “trainees” and “apprentices”.

Secondly, there is a difference in the definition of the term “employer”. The employer is defined as “any natural or legal person who has an employment relationship with the worker and has responsibility for the undertaking and/or establishment” in the Framework Directive [10]. In the Law of Ukraine “On Labor Protection”, “an employer” is an owner of an enterprise, institution, organization or body authorized by him/her, regardless of the ownership, type of activity, business, and natural person who employs the hired labor” [4]. In the Law of Ukraine “On Mandatory State Social Insurance” it is stated

that “an employer” is “a legal entity (enterprise, institution, organization) or a natural person – entrepreneur that uses the labor of natural persons in the scope of labor relations” [6]. At first glance, the difference in definitions is not so obvious. However, from a legal point of view it is worth paying attention to the following:

1. In the Framework Directive, the responsibility of the “employer”, i.e. a specific circle of persons, is spelled out more specifically.

2. The two Laws of Ukraine give different definitions of the term “employer”. In fact, different phrases are used without their specification. For example, an employer is someone who “employs the hired labor” [4] and someone who “uses the labor of natural persons in the scope of labor relations” [6]. The word-combination “in the scope of labor relations” is not specified in the Law, which makes it impossible to specify the circle of persons falling under the definition of “an employer”.

The third, even greater discrepancy between the Framework Directive on Occupational Safety and Health and the legislation of Ukraine on labor protection we observe when analyzing the last two key definitions: “workers’ representative with specific responsibility for the safety and health of workers”, as well as “prevention”. In the Framework Directive “workers’ representative with specific responsibility for the safety and health of workers” is defined as “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” [10]. “Prevention” is considered as “all the steps or measures taken or planned at all stages of work in the undertaking to prevent or reduce occupational risks”. There are no single and clear definitions of the last two terms in the Ukrainian legislation. Disclosure of the meanings of these terms in varying degrees, we observe in all five Laws of Ukraine on labor protection. However, de-facto these terms are described, but not determined. There is a lack of clarity in the wording of these terms, excluding the ambiguity of their interpretation in judicial practice.

Thus, a cursory analysis of the key terms and their meanings that are used in “The European Framework Directive on Safety and Health at Work (Directive 89/391 EEC)” and in the Laws of Ukraine on labor protection showed the existing difference in the legal regulation of labor protection in Ukraine and the European Union. This difference is complicated by the existing contradictions within the Ukrainian legislation on labor protection.

The approximation of the laws of the European Union and Ukraine is a complex legislative process. It provides rethinking of the established truth and habitual approaches. N. Gnidiuk, and S. Pavliuk exposed as far as important in actual fact there is a search of effective ways of integration of legislation of Ukraine in the legal system of European Union in their book “Approximation of Ukrainian legislation with EU law under the Association Agreement: between legal obligations and policy analysis?” [12]. “Association agreement” consists of about 355 acts of the European Union, the provisions of which should be transferred to the Ukrainian legislation [1]. The complexity of this process in different areas is revealed in the works of V. Halunko [13], O. Kobzar [14], J. Utko-Maslyanik [15] and others.

In order to go the way of approximation of the two legislations quickly and effectively, a clear understanding of the risks and advantages of this process is necessary.

Let us consider the expected risks of implementing the main provisions of “The European Framework Directive on Safety and Health at Work” in the legal field of Ukraine.

First, we note the different history of the formation of European and Ukrainian law on labor protection. For a long time, the history of two law schools developed in opposition, not in cooperation. Ukrainian laws on labor protection continue the traditions of the school of Soviet legists, who relied

on the ideological, economic and social realities of the USSR. The Ukrainian labor protection legislation is based on the completely different philosophy, principles and approaches. Replacing one school of lawmaking with another, and even in such a short time, in fact, can be compared with a change in the existentials of the human worldview [16]. It is not only painful and fraught with uncontrolled processes. In practice, it can lead to chaos in the legal regulation of labor protection in Ukraine.

Second, the provisions of “The European Framework Directive on Safety and Health at Work” have exclusively strategic objectives. Each state chooses an individual way of implementing the provisions of the Framework Directive in national legislation. The workflow analysis of the European Agency for Safety and Health at Work reveals the different nature of the implementation of the strategic objectives of the Framework Directive in the national legislation. Each state of the European Union chose not the typical path of implementation, but in accordance with the history and traditions of national legislation. For this reason, it makes no sense for Ukrainian lawyers to copy someone else’s experience. It is necessary to develop our own way of implementation, in accordance with the history and national traditions of the formation of Ukrainian legislation. However, in the incomplete three decades of Ukraine’s independence, such a path has not been established yet.

Third, the implementation of the European Union directives, regulations and decisions is governed by the decisions of the Court of Justice of the European Union. The inconsistency of national health and safety laws is unified by the influence and on the basis of the decisions of the Court of Justice of the European Union. “The Association Agreement”, as well as the legislation of Ukraine, does not provide for the influence of the Court of Justice of the European Union on the territory of Ukraine. For this reason, the implementation of the provisions of the Framework Directive on Occupational Safety and Health in Ukraine may lead to opposite results, for example, the creation of the Law on Occupational Safety and Health in the Ukrainian sense. In fact, Ukraine will abandon its own school of law-making in the field of labor protection and at the same time will remain far from the traditions of the European school of law-making in this area. This situation has developed in the modern Ukrainian education [17].

Fourth, the implementation of the provisions of the Framework Directive on Occupational Safety and Health in the Ukrainian law may be contrary to the international treaties that Ukraine has concluded with the international governmental and public organizations over the years of its independence. Despite the fact that “The European Framework Directive on Safety and Health at Work” has been agreed with all key international organizations, it does not mean the relevance of Ukraine’s international obligations and changes in labor protection legislation. In Ukraine, there is no mechanism for verifying compliance of the implementing provisions of the Framework Directive on Occupational Safety and Health with obligations to international organizations fixed already in the Laws of Ukraine. For this reason, the implementation of the provisions of the Framework Directive in the Ukrainian legislation may contradict the existing Laws of Ukraine, international agreements, for example, with International Labour Organization (ILO), the World Health Organization (WHO) and others.

Let us consider the advantages that will bring closer the legislation of Ukraine and the European Union in the field of labor protection. The result of the rapprochement in the countries bordering Ukraine in the West: in Poland, Slovakia, Hungary, and Romania is a good example for Ukraine. The adoption of the Framework Directive on Occupational Safety and Health as the basis of the strategic objectives allowed those states to improve national legislation on occupational safety and health at work in a short time, reduce occupational risks,



reduce the number of accidents at work, and improve the legal culture of responsible parties for labor protection.

First, the approach to lawmaking on occupational safety and health will change. Ukraine will take the European law-making school as a basis, thereby making the final transition from partnership and cooperation to a worldview association with the European community. Ukraine will become “European” not only territorially, but also mentally. An important role in this process should be assumed by philosophical disciplines. The influence of philosophical disciplines on the adoption of state management decisions is disclosed in a study by S. Rudenko [18]. It should be noted that European integration is not so much an external political activity. This is primarily a domestic policy aimed at changing the social, economic and cultural determinants of society.

Second, there will be a unification of the key terminology in accordance with the international standards. The terminology and its meanings that are used in the legislation of Ukraine on labor protection does not correspond not only to the terms used in the legislation of the European Union, but also to the terms used in the documents of the International Labor Organization (ILO), the World Health Organization (WHO) and others reputable international organizations that specialize in the safety and health of workers in the workplace. Rapprochement of legislation will clarify the key terminology and transfer the most important meanings and related legal regulation to the legal field of Ukraine.

Third, the institutional organization of occupational safety and health in Ukraine will change. This will improve working conditions in Ukraine, increase safety at work, reduce occupational injuries and occupational morbidity, strengthen employers' responsibility to workers, make labor at work as secure as possible, and labor relations regulated in the legal field.

Fourth, it will strengthen the position of Ukraine in the field of the European integration, thereby spreading the protection of its citizens beyond the territorial borders of Ukraine.

Fifth, it specifies the goals and objectives of ensuring occupational safety and health, which are associated, for example: a) with the workplace, its equipment, personal protective equipment; b) with the characteristics of exposure to chemicals and chemical safety; c) with workload, ergonomic and psychosocial risks; d) with features of exposure to biological agents; and others. All these tasks are planned and set out in the European Union Directives, expanding and clarifying the provisions of the Framework Directive.

**Conclusions.** The risks and advantages of approximation of the legislation of the European Union and Ukraine in the field of labor protection that we have examined allow us to formulate the most effective way to implement the strategic goals of “The European Framework Directive on Safety and Health at Work”. From our point of view, it should consist of the following steps:

1. The approximation of laws is a dynamic process that requires active lawmaking. For this reason, a Center (or Agency) should be created in Ukraine, which should fulfill the goals and objectives similar to the European Agency for Safety and Health at Work. The created Center is to be responsible for the implementation of the provisions of the Framework Directive on Occupational Safety and Health in the Ukrainian legislation. Ukrainian legislators specializing in labor protection and international law should be involved in the created Center.

2. The recommendations of the Center on the implementation of the provisions of the Framework Directive on Occupational Safety and Health in the Ukrainian legislation are binding. They should be used as the basis for the formation of policies and legislation on occupational safety and health in Ukraine. Based on the recommendations of the Center, a dynamic approximation of legislation in this area is carried out.

3. The created Center should actively cooperate with the European Agency for Safety and Health at Work, have its authority in order to be able to use the Agency's experience in improving the legislation of Ukraine on the safety and health of workers in the workplace.

4. In parallel with the organization of the Center's work and in accordance with its recommendations, it is necessary to change the institutional organization of the sphere of occupational safety and health in accordance with the European Union standards; to ensure the human, financial and informational potential of the newly created institutions.

#### References.

1. Legislation of Ukraine (n.d.). *Association Agreement between the European Union and the European Atomic Energy Community and their member states, of the one part, and Ukraine, of the other part*. Revision on November 30, 2015. Retrieved from [https://zakon.rada.gov.ua/laws/show/984\\_011?lang=en](https://zakon.rada.gov.ua/laws/show/984_011?lang=en).
2. Oleksiyenko, A. (2019). Why Is Governance Research Important for University Reforms in Ukraine? *Ukrainian Policymaker*, 4, 27-35. <https://doi.org/10.29202/up/4/5>.
3. Legislation of Ukraine (n.d.). *The Constitution of Ukraine*. Revision on February 21, 2019. Retrieved from <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>.
4. Legislation of Ukraine (n.d.). *The Law of Ukraine “On Labor Protection”*. Revision on January 20, 2018. Retrieved from <https://zakon.rada.gov.ua/laws/show/2694-12>.
5. Legislation of Ukraine (n.d.). *The Labor Code of Ukraine*. Revision on June 21, 2019. Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08>.
6. Legislation of Ukraine (n.d.). *The Law of Ukraine “On Mandatory State Social Insurance against Industrial Accident and Occupational Disease that Caused Disability”*. Revision on April 1, 2014. Retrieved from <https://zakon.rada.gov.ua/laws/show/1105-14/ed20140419>.
7. Legislation of Ukraine (n.d.). *The Law of Ukraine “On Adopting the National Social Program for Improvement of Safety, Workplace Hygiene and Production Environment in 2014–2018”*. Revision on January 1, 2015. Retrieved from <https://zakon.rada.gov.ua/laws/show/178-18>.
8. *European Agency for Safety and Health at Work* (2019). Retrieved from <https://osha.europa.eu/en>.
9. *Council Regulation (EC) No 2062/94 of 18 July 1994 establishing a European Agency for Safety and Health at Work* (n.d.). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01994R2062-20050804>.
10. *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)* (n.d.). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01989L0391-20081211>.
11. Dreval, Yu. D. (2018). The problem of the concept and categorial apparatus in the field of labor safety. *Collection of scientific works of KhNPU named after G. S. Skovoroda “law”*. (28), 15-20. <https://doi.org/10.5281/zenodo.1316976>.
12. Gnidiuk, N., & Pavliuk, S. (2016). *Approximation of Ukrainian legislation with EU law under the Association Agreement: between legal obligations and policy analysis?* European Information and Research Center. Retrieved from <http://euinfo-center.rada.gov.ua/uploads/documents/29067.pdf>.
13. Halunko, V., & Didenko, S. (2019). Private International Space Law. Philosophical and Legal Factors of Approval by the World Community. *Philosophy and Cosmology*, 22, 16-23. <https://doi.org/10.29202/phil-cosm/22/2>.
14. Kobzar, O., & Danylenko, A. (2019). International and National Provisions of Space Law Regulating the Use of Outer Space. *Advanced Space Law*, 3, 48-62. <https://doi.org/10.29202/asl/2019/3/4>.
15. Utko-Maslyanik, J. (2018). Legal Basis of Cooperation between Ukraine and the European Union in the Space Sector. *Advanced Space Law*, 2, 96-111. <https://doi.org/10.29202/asl/2018/2/11>.
16. Bazaluk, O. (2019). The Revival of the Notion of Arete in Contemporary Philosophy. *Schole*, 13.1, 198-207. <https://doi.org/10.25205/1995-4328-2019-13-1-198-207>.

17. Boychenko, N. (2017). Counterfactuality of the Ethical Norms of Higher Education. *Future Human Image*, 7, 28-35.
18. Rudenko, S., Bazaluk, O., Tsvykh, V., & Kalmuk, I. (2019). The Role of Philosophical Disciplines in Educational Strategies for Specialist Training in the Field of Public Administration. *Naukovyi Visnyk Natsionalnoho Hirnychoho Universytetu*, (3), 158-163. <https://doi.org/10.29202/nvngu/2019-3/22>.

### **Зближення законодавства Європейського Союзу та України у сфері охорони праці: ризики й переваги**

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**Мета.** Оцінка ризиків і переваг зближення законодавств Європейського Союзу та України у сфері охорони праці, а також у розробці конкретних кроків імплементації стратегічних цілей Європейської рамкової директиви з безпеки та гігієни праці у правове поле України.

**Методика.** Для досягнення поставленої мети автори використали комплекс методів: а) теоретичні: аналіз, синтез, систематизація та узагальнення; б) емпіричні: вивчення традицій, метод експертних оцінок і самооцінки.

**Результати.** Автори переосмислили закріплене у статті 43 Конституції України право українців на «належні, безпечні та здорові умови праці» відповідно до стандартів європейського законодавства, і запропонували найбільш ефективний шлях імплементації стратегічних цілей Європейської рамкової директиви з безпеки та гігієни праці у правове поле України. На думку авторів, рушійною та спрямовуючою силою зближення законодавств Європейського Союзу та України у сфері охорони праці є новостворений Центр з імплементації положень Рамкової директиви з охорони праці в українське законодавство. Ця нова інституція виконує цілі й завдання аналогічні European Agency for Safety and Health at Work. Рекомендації Центру повинні використовуватися в якості базових для формування політики й законотворчості з безпеки та гігієни праці в Україні.

**Наукова новизна.** Автори розглянули ризики й переваги зближення законодавства Європейського Союзу та України в галузі охорони праці й розробили послідовність імплементації стратегічних цілей Європейської рамкової директиви з безпеки та гігієни праці у правове поле України.

**Практична значимість.** Зближення законодавства Європейського Союзу та України в галузі охорони праці підвищить захист безпеки й гігієни працівників відповідно до стандартів Європейського Союзу, Всесвітньої організації охорони здоров'я, Міжнародної організації праці, Панамериканської організації охорони здоров'я, Міжнародної морської організації та ін. Запропоновані авторами конкретні кроки імплементації стратегічних цілей Європейської рамкової директиви з безпеки та гігієни праці у правове поле України дозволять ефективно та в короткі терміни часу модернізувати законодавство України в галузі безпеки та здоров'я на виробництві.

**Ключові слова:** охорона праці, безпека та гігієна, зближення законодавств, Рамкова директива

### **Сближение законодательств Европейского Союза и Украины в сфере охраны труда: риски и преимущества**

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**Цель.** Оценка рисков и преимуществ сближения законодательств Европейского Союза и Украины в сфере охраны труда, а также в разработке конкретных шагов имплементации стратегических целей Европейской рамочной директивы по безопасности и гигиене труда в правовое поле Украины.

**Методика.** Для достижения поставленной цели авторы использовали комплекс методов: а) теоретические: анализ, синтез, систематизация и обобщение; б) эмпирические: изучение традиций, метод экспертных оценок и самооценки.

**Результаты.** Авторы переосмыслили закреплённое в статье 43 Конституции Украины право украинцев на «належні, безпечні та здорові умови праці» в соответствии со стандартами европейского законодательства, и предложили наиболее эффективный путь имплементации стратегических целей Европейской рамочной директивы по безопасности и гигиене труда в правовое поле Украины. По мнению авторов, движущей и направляющей силой сближения законодательств Европейского Союза и Украины в сфере охраны труда является новосозданный Центр по имплементации положений Рамочной директивы по охране труда в украинское законодательство. Эта новая институция выполняет цели и задачи аналогичные European Agency for Safety and Health at Work. Рекомендации Центра должны использоваться в качестве базовых для формирования политики и законотворчества по безопасности и гигиене труда в Украине.

**Научная новизна.** Авторы рассмотрели риски и преимущества сближения законодательства Европейского Союза и Украины в области охраны труда и разработали последовательность имплементации стратегических целей Европейской рамочной директивы по безопасности и гигиене труда в правовое поле Украины.

**Практическая значимость.** Сближение законодательства Европейского Союза и Украины в области охраны труда повысит защиту безопасности и гигиены работников в соответствии со стандартами Европейского Союза, Всемирной организации здравоохранения, Международной организации труда, Панамериканской организации здравоохранения, Международной морской организации и др. Предложенные авторами конкретные шаги имплементации стратегических целей Европейской рамочной директивы по безопасности и гигиене труда в правовое поле Украины позволят эффективно и в короткие сроки модернизировать законодательство Украины в области безопасности и здоровья на производстве.

**Ключевые слова:** охрана труда, безопасность и гигиена, сближение законодательств, Рамочная директива

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