

## ANALYSIS OF THE NATIONAL LEGISLATIVE AND REGULATORY FRAMEWORK IN THE FIELD OF OCCUPATIONAL HEALTH AND SAFETY IN THE REPUBLIC OF MOLDOVA

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### Abstract

Over time, the Republic of Moldova has gone through several stages of development and reform of the Occupational Health and Safety System. This article aimed to assess the complex legal and regulatory framework in the field of occupational health and safety in the Republic of Moldova. Currently, the Republic of Moldova has ratified 43 conventions and 1 protocol, namely - 8 out of 8 fundamental

conventions, 4 out of 4 governing conventions (priority) and 31 technical conventions. Over the years, 2 conventions have been denounced. At the beginning of 2021, the Moldavian parliament adopted the International Labour Organization (ILO) Convention No.161 (1985) on occupational health services. The legal and regulatory framework in occupational safety and health is good enough, but major problems are identified in their implementation.

**Keywords:** Occupational Health and Safety, International Labour Organisation, ILO Convention No.161., Knowledge transfer

## 1. Introduction

Work is an indispensable part of human life. The connection that peoples have with work, inside or outside it, has an important influence on health (Turcanu et al., 2019). This is evident, on the one hand, in the general morbidity and mortality profiles of the population, in which the increase in cardiovascular disease, diabetes, cancer and obesity could be linked to occupational risk factors (Deleu et al., 2020a) and, on the other hand, in registered injuries and occupational diseases. In the same way, it is important the health damage that can occur to people who do not have a job or to those who have it but in precarious conditions (harmful and dangerous) (Deleu et al., 2020b; Deleu et al., 2020c).

Damage to or from work-related health and lack of access to health and social security services are issues related to lack of equity. In this way, it should be noted that the Commission on Social Determinants for Health of the World Health Organization has established that work, especially in adequate and decent working conditions, can in fact complement the needs for reducing health inequities in health (Deleu et al., 2020c; Felszeghi, 2014). Similarly, various elements of social organizations, such as the distribution of wealth and power in central and local areas, explain most of the health inequities. They depend on the policies adopted (Cheptea et al., 2021; Deleu et al., 2020c). The assessment and monitoring of occupational risk factors and the health of workers, the development and implementation of prevention and treatment measures is one of the main tasks of the legislative and executive authorities, which determine the health protection policy, economic, legislative and social measures (Cheptea, 2021; Cheptea et al., 2021; Deleu et al., 2020a; Felszeghi, 2014; Felszeghi, 2022).

### 1.1. Aim

This article aimed to assess the complex legal and regulatory framework in the field of occupational health and safety in the Republic of Moldova and relevant social and economic factors that make up the national context, to be taken into account in aligning OSHS (Occupational Safety and Health System) with EU standards.

### 1.2. Materials and methods

An international collaborative network was set up between Nicolae Testemițanu State University of Medicine and Pharmacy, Republic of Moldova, University of Pavia, Italy and University of Miskolc, Hungary resulting in the elaboration of the project “Improving Occupational Health and Safety System in Republic of Moldova”. This project involved also the study and evaluation of the national legislative and normative acts in order to facilitate implementation of ILO Convention No.161, on occupational health services, ratified by Parliament of the Republic of Moldova.

The article has been structured in three parts ranging from general to specific: the overview of the country, an institutional framework for the functioning of the Occupational Health System and the legal and regulatory framework for health and safety at work.

## 2. An overview of the country

The Republic of Moldova became independent in 1991 with the dissolution of the Soviet Union. Since then, the country has become a parliamentary republic and has embarked on an ambitious programme of economic reform (Turcanu et al., 2019). According to official statistics, at the beginning of 2022 in the Republic of Moldova 97.4% out of 52.2 thousand registered, of which about 75% are micro and small industrial enterprises. The potential of small and medium-sized enterprise (SME) development and entrepreneurship for the creation of more and better jobs has not yet been fully exploited. In past years Moldova has made moderate progress in the design and implementation of SME and entrepreneurship policies when compared to international best practices. Nevertheless, the share of employers in the labour force remains low at 3.6% (EU average is at 15%) with a particularly low share of female employers (less than 1%, EU: 10%). It should be mentioned that the European Labour Risk Observatory considers small and medium-sized enterprises to be new and emerging risks, as about 90% of occupational diseases registered in the EU are produced in this category of economic units.

The occupational structure of the Republic of Moldova consists of services (53%) and agriculture (27%), followed by the public sector (21%), the industrial sector (13%), and constructions (5.7%).

Regarding the professional status of the economically active population, 71.2% are employees, 27.1% - self-employed, 1.6% - unpaid family workers, 0.1% - employers, members of cooperatives. According to the official statistics, over 58 thousand persons work in a poor work environment, inconsistent with the national occupational health legislation, and 34.5 thousand (59.48%) are women, which constitutes about 10% of the total number of employees.

In 1992, the Republic of Moldova joined the International Labour Organization (ILO), committing itself to the development of national labor legislation in compliance with the provisions of the ILO Conventions and Recommendations. Currently, the Republic of Moldova has ratified 43 conventions and 1 protocol, namely - 8 out of 8 fundamental conventions, 4 out of 4 governing conventions (priority) and 31 technical conventions. Over the years, 2 conventions have been denounced. At the beginning of 2021, the Moldavian parliament adopted the ILO Convention No.161 (1985) on occupational health services.

Reduction of the working age population employed from 1514.60 thousand people in 2000 to 1207.50 thousand in 2019, mainly on behalf of those aged 35-44 (by 139.8 thousand people or 1.5 times), 15-24 years (by 117.2 thousand people or 2.5 times) and the increase of those of 45-54 years (by 88.9 thousand people or 1.3 times). Occupational immigration (at work or looking for a job abroad) is 323.86 thousand people, of which 46.9% are between 20 and 39 years old.

Although unemployment fell from 8% to 5% between 2000-2019 (data.worldbank.org), the real problems are low employment rates and high levels of inactivity. The employment rates of the country have been very low over the past two decades (2000: 45%, 2019: 40%; EU average: 53% in 2019) (ilo.org). The employment rates for women are lower than for men (36% vs 44% in 2019).

Currently, the epidemiological pattern shows that the main causes of death are chronic noncommunicable diseases, such as ischemic heart disease, stroke, cancer and liver cirrhosis, diabetes, which occur mainly in people over the age of 40 (Deleu et al., 2020c).

### **3. An overview of the occupational health and safety system**

In the Republic of Moldova, in contrast with western countries, occupational health and safety services are managed by 2 ministries - Ministry of Labour and Social Protection and Ministry of Health.

Article 223 of the Labour Code establishes that the Ministry of Labour and Social Protection exercises the coordination of occupational safety and health in the Republic of Moldova. It will also develop effective public policies as well as monitor the quality of policies and regulations. The administrative authorities subordinated to the Ministry of Labour with attributions within the Occupational Health System are the State Labour Inspectorate and the Social Inspection.

The Ministry of Health is the central specialized body of public administration that ensures the implementation of government policy in the field of health care. It also has a decisive role in the management of occupational health data.

The main actors and the evaluation and monitoring of occupational risk factors and the health of workers are: the State Labour Inspectorate – responsible for monitoring the compliance with labour law, labour security conditions, primary prevention and case research of accidents at work, as well as the National Agency for Public Health – responsible for monitoring the occupational risk factors, primary prevention of occupational diseases, monitoring the health status of employees (morbidity with temporary disability for work and the results of periodic medical examinations) and the research of cases of occupational diseases.

The next reform implemented in 2017 in the Republic of Moldova, which involved the change of the Occupational Health and Safety Service, resulted in the assignment of responsibilities for occupational health and safety to 10 national agencies, which proved to be very inefficient. As a result, in 2021, Law no. 140 of 10-05-2001 amended by Law no. 191 of 19-11-2020, the field of occupational health was reintroduced in the list of competencies of the State Labour Inspectorate, along with labour relations and occupational safety, returning to the reforms of 2017.

The professional training of physicians specialized in occupational medicine and specialized in hygiene is carried out at the *Nicolae Testemițanu* State University of Medicine and Pharmacy of the Republic of Moldova. Postgraduate education in Occupational Medicine, through residency for 4 years was introduced in 2018 (1 resident physician), in 2019 – 3 resident physicians, which is insufficient to cover the real needs in the respective specialty.

Another problem is the lack of training of the healthcare professionals from the primary health care sector in the field of occupational health and engaged in the prophylactic medical examinations (preventive and periodic) of the employees exposed to occupational risk factors, through thematic and/or complementary courses of continuing medical education.

### **4. Occupational Health legislation and Occupational and Safety Health (OSH) regulatory framework**

Taking into account the complex nature of occupational health activities based on the principle of intersectoral cooperation, the legal basis in this field in the Republic of Moldova includes a series of legislative and normative acts adopted by Parliament, Government, Ministries and Departments. Despite the fact that the Republic of Moldova has been actively involved in international cooperation by acceding to various treaties, by signing and ratifying multiple conventions in the field, it requires a reform and completion of the legislative basis in this regard. This peculiarity makes us take into account the experiences of many other countries, which have thus formed a legal basis.

Therefore, under these conditions, a legal basis and an adequate infrastructure are needed. In this context, it is very important for the legal basis to react to social changes and to draft legislative and normative acts, which would regulate occupational health activities.

Supreme Act - **The Constitution of the Republic of Moldova** (August 27, 1994) regulates many activities, which are of significant importance for occupational health.

This requires *Article 36* that the right to health care is guaranteed. *Article 43* also indicates that everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.

**The Labour Code** of March 28, 2003 and the Occupational Safety and Health Act of July 10, 2008 are the main laws of Moldova on occupational safety and health. One of the basic principles of the Labour Code is to ensure the right of every worker to fair working conditions, including the conditions which meet the requirements of occupational safety and health. Section IX of the Labour Code is dedicated to occupational safety and health. The OSH Act supplements the occupational safety and health provisions of the Labour Code and provides the legal framework for the regulation of relations in the field of occupational safety and health between employers and workers. Legal provisions on protection of workers from specific occupational risks or hazards are contained in various separate legislative enactments such as: (i) the Act on Dealing with Harmful Products and Substances, (ii) the Act on Safe Conduct of Nuclear and Radiological Activity, and (iii) the Act on Fire Safety.

**The Law on Occupational Safety and Health No. 186-XVI** of July 10, 2008- *This law establishes the general principles on occupational risk prevention*, protection of workers at work, elimination of risk and injury factors, information, consultation, balanced participation, training of workers and their representatives, as well as general guidelines on the application of these principles.

At the same time, *the law regulates the legal relations related to the establishment of measures to ensure the safety and health of workers at work*. It is also stipulated that the law applies in all areas of activity both public and private, except for certain activities specific to the armed forces, police or civil protection services if they are, inevitably, in conflict with the provisions. In this case, the safety and health of workers shall be ensured taking into account, as far as possible, the provisions of this law.

*The law also sets out in detail the obligations of employers and workers in the field of occupational safety and health*. Article 21 of the law establishes the measures by which workers are provided with the medical examination corresponding to the occupational risks they face at work. These measures are established according to the normative acts issued by the authorities in consultation with employers and trade unions. These measures will be formulated in such a way that each worker receives a regular medical examination.

**The Law on Health Care No. 411-XIII** of March 28, 1995 that establishes the structure and fundamental principles of the health care system. The health care system consists of curative-prophylactic, sanitary-prophylactic, anti-epidemic, pharmaceutical and other sanitary units. The law stipulates that prophylaxis is the fundamental principle in ensuring the health of the population. Healthcare providers can be public or private. The public providers of medical services are the public medical institutions and the budgetary authorities / institutions.

**The Law on State Public Health Surveillance No.10-XVI** of February 3, 2009, regulates the organization of the state supervision of public health, establishing general requirements of public health, the rights and obligations of natural and legal persons and the organization of the system of state supervision of public health. The Article no. 5 of the law sets out the areas in which state surveillance of public health is performed. *These include the field of occupational safety and health*. The article no. 17 sets out the role of the Public Health Centers. These are territorial subdivisions of the National

Agency for Public Health, without legal personality, which ensures the coordination of public health activities at territorial level.

Analyzing the existing legal and institutional framework operating in the Republic of Moldova, as part of the OSHS, the following conclusions and recommendations can be taken into account that among the *major achievements* of this progress can be the ratification of ILO standards in the field of Occupational Safety and Health, and a high political commitment both internally and the involvement of external partners.

Despite significant progress across the country, several challenges remain for the work of national occupational health systems and labour and health inspection authorities. The gaps between national legislation and the lack of policies that would support OSH laws and occupational health systems and applicable international standards in this area, in particular as regards the applicable legal provisions on institutional cooperation mechanisms. The lack of financial resources and the hyper-decentralization of governmental institutions for monitoring and control in the field of Occupational Health have also led to a low level, quantitative and qualitative, of monitoring and control activities in the field of OSH.

## 5. Perspectives

The legal and regulatory framework in occupational safety and health is good enough, but major problems are identified in their implementation. The ratification by the Republic of Moldova of ILO Convention 161/1985 and the implementation of the Implementation Action Plan represents the feasible opportunity to align the OSHS system with EU standards, which will ultimately be reflected in creating better working conditions, strengthening and promoting health at work.

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