

Occupational Safety and Health

International and European influences on a National level

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Abstract

Occupational safety and health is an important aspect concerning every worker and employer. It is not only of concern on a national level but also internationally, where a lot of regulations has its beginning. Membership in the International Labour Organisation and the European Union comes with obligations for its members. This is why we are interested in studying how we need to implement their standards and what the sanctions may be for non-complying. The purpose of this thesis is to understand the impact that international and European legislation can have on the national legal system. Like most legal essays, we use the traditional legal dogmatic method focusing on the primary legislation provided on each level.

The research has shown that Sweden more often has ratified conventions issued by ILO, and done as members of EU what is needed to comply with the EU legislation. In some areas the Swedish legislation is even stronger than what is needed in relation to what the ILO and EU has stated. Another interesting thing that occurred to us during the research was that the occupational safety and health legislation on all levels is in the form of framework legislation with a lot of complementary regulations for specific concerns, which makes the understanding of the legislation and regulations more complicated than needed. The research shows that some organisations have really strong sanctions while others are weaker, this is due to the legal basis of these organisations. We also provide our thoughts on both the subject of occupational safety and health and the efficiency of the sanctions.

Key words: Occupational Safety and Health, ratification, sanctions, International Labour Organisation, European Union, AML, work environment, OSH

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Abbreviation

AML	Work Environment Act
AV	The Swedish Work Environment Authority
CFREU	Charter of Fundamental Right of the European Union
ECJ	European Court of Justice
EU	European Union
OSHA	The European Agency for Safety and Health at Work
ICJ	International Court of Justice
ICOH	The International Commission on Occupational Health
ILO	International Labour Organisation
ISSA	The International Social Security Association
OSH	Occupational Safety and Health
TFEU	Treaty on the Functioning of the European Union
UN	United Nations

1. Introduction

1.1 Subject

Occupational safety and health (OSH) is something that concerns every person that is in any form of labour. All work is associated with certain risks that endanger the worker, and this is why legal systems are necessary to ensure a safe and healthy work environment.

Sweden has in many ways been described as a country in the forefront of legislation on a vast number of aspects regarding labour law, and OSH is one of them. In what way is Sweden's membership in international organisations that focuses on labour law, and in the European Union (EU), affecting us when it comes to legislation in the area of OSH? Sweden has, as a member of the International Labour Organisation (ILO), ratified different conventions that concern OSH. How have these agreements influenced our national legislation? OSH is a phenomenon that is ever changing and is of a growing importance. New concerns arise as the labour market evolves. Is the national legislations in Sweden at the same level as the EU and ILO, or might Sweden already be ahead and making way for new international legislation coming true?

1.2 Purpose and research question

The purpose of this thesis is to study International and European Law concerning OSH, in relation to the Swedish Work Environment Act (AML), and other regulations issued by The Work Environment Authority (AV). We want to study how Sweden has implemented regulations issued by the ILO and the EU. We also want to investigate what the legal implications are for not complying with the standards and regulations issued by ILO and the EU, and what the legal consequence are for non-compliance on the national level.

The research questions are:

- What is the legal framework on OSH in an international and European perspective and how does Sweden implement these standards?
- What is legislated on an International and European level on sanctions for breaking OSH legislations and what is the Swedish sanction system for not complying with the law regarding OSH?

1.3 Limitations

Occupational safety and health is a vast subject and the scope of this thesis is not to look in to all aspects of OSH but we will try to focus on explaining the general outline of each legislative level on OSH: the international, the European and the national level. Since there is no room for every aspect of OSH, the main focus will be on how Sweden has implemented the different international and European regulations.

We are also interested in looking at what sanctions Sweden could be facing if not complying with the obligations they have committed to when signing an ILO convention or joining the EU, as well as discern the legal consequences enterprises can face when not complying with the Swedish legislation on OSH. We will not be studying legal cases related to OSH, because there are only a few available cases and those rarely consider International or EU legislation. Neither will we look at specific regulations issued by the AV.

The material used is a limitation in itself, this due to the fact that there is not that much material or studies about international organisations like the ILO and their obligations, other than what is presented on their webpage. The impact that the international organisations and the EU have on the national legislation regarding OSH is scarce and not well depicted in literature. That leaves us with a lot of unexplored areas that we will need to explore without any guidance.

1.4 Method and material

To be able to understand, and research OSH in an international and European perspective, we will have to study the norm hierarchy, and what legal basis that is present in international law and European law, and study their relation to each other, as well as the effects they have on Swedish legal systems.

1.4.1 Traditional legal dogmatic method

In order to answer the questions there will be a need to interpret and understand the different systems that is present at an international, European and national level. To approach these matters we have to follow a traditional legal dogmatic method, i.e. on the national level through statutory law, preparatory work, etc.¹ At the international level we will research the constitution, treaties, conventions and recommendations. Important documents to study at the union level is the Treaty of the Functioning of the European Union (TFEU) and the framework directive. The

¹ Peczenik, Aleksander, *Juridikens teori och metod: en introduktion till allmän rättslära*, 1. uppl., Fritze, Stockholm, 1995, p 33-34.

traditional legal dogmatic method is a way of explaining and understanding the law as it is today.²

We are aware of the critique expressed by some scholars about using a traditional legal approach on the subject of labour law, as some say that it might not work as favourably as it does in other areas of law. The traditional legal dogmatic method has the objective to systemise and present a coherent interpretation and it is said that this is not possible with the modern legislations. However, other scholars refute these critiques, and say that a traditional legal method is suited for the "newer" areas of legislation, as labour law.³

1.4.2 Material

The selection of material has been rather restricted by the fact that on an international level, only the ILO have made any international regulations on the subject of OSH. One rather alarming discovery that we made when searching for literature on the subject, was that AMLost all authors, who have written about international legislation focuses on a higher level of agreement making (such as treaties and conventions made by the United Nation) and not so much on what obligations and effect specific international organisations have, like the ILO. The documents of main importance from the ILO on OSH are different conventions, but there are also some recommendations. These recommendations are however too specific for the purpose of this paper.

OSH in the EU legislation involves several sources from the Charter of Fundamental Rights of the European Union (CFREU), Treaty of the Functioning of the European Union (TFEU) and the framework directive on occupational safety and health. Otherwise there are little published on the subject OSH in EU other than the information that can be found on the webpage from the European Agency for Safety and Health at Work (OSHA). On a national level it is of great interest to study the Work Environment Act (AML). In Sweden preparatory work is a significant source of information on why and how the legislation is created and meant to be understood, it is therefore important to study these documents. They give both a historic and interpretive perspective on the development of the legislation and the role that it is meant to have in the future.

1.5 Disposition

This thesis is divided into five chapters. The first chapter is an introduction chapter meant to present the subject, method and research question while at the same time

² Kellgren, Jan & Holm, Anders, Att skriva uppsats i rättsvetenskap: råd och reflektioner, 1. edition, Studentlitteratur, Lund, 2007, p 47.

³ Peczenik, *Juridikens teori och metod: en introduktion till allmän rättslära*, p 33-34.

introduce the limitations and the material selected. In the second chapter we introduce the international aspects of OSH with the primary focus on ILO and their legal basis. Chapter three will provide the European perspective where the EU is given the largest consideration on how it affects national legislation. Moving on to chapter four we arrive to the chapter where the Swedish legal system on OSH is presented. In the fifth and final chapter we analyse the material that has been presented and try to make this vast subject a bit more understandable.

2. International Occupational Safety and Health

At first we need to look at what OSH is through an international point of view. In this chapter there will be a presentation of the international legal basis and the organisation behind these standards. The international level agreements on OSH are made through conventions and recommendations, and in this chapter there will be a presentation of the most important ones. There will also be an explanation on what happens when a country does not implement the convention that it has signed.

At an international level the ILO is the main organisation working with OSH, and since it is an agency of the UN this means that ILO has a lot of influence on the subject. ILO consists of organisations of workers (trade unions), employers and governments creating a dialogue on topics concerning the labour market.⁶ The ILO is the only organisation that has the ability to create internationally binding conventions on OSH.⁷

There are non-governmental organisations (NGOs) that target OSH but their role is more focused on creating an environment where discussions about OSH can be made and collecting researcher's material for the members to take part of. Such organizations are, for example the International Commission on Occupational Health (ICOH) and the International Social Security Association (ISSA).⁴

2.1 ILO's legal basis

The legal basis for ILO is found in its constitution.⁵ ILO mainly issues standards for what should be included in basic principles regarding worker's rights. These standards are legal instruments, and are issued as either conventions or recommendations,⁶ which are voted on by the members of ILO during a conference. If the conference participants consider that the subject or proposal is not at the time appropriate as a convention it is instead elected as a recommendation, or not at all.⁷ We have noted that the conference most of the time seems to decide to both give

⁴ ISSA (The International Social Security Association). The Issa & ICOH (The International Commission on Occupational Health). About ICOH

⁵ ILO (International Labour Organisation). ILO Constitution, Article 19

⁶ <http://www.ilo.org/global/topics/safety-and-health-at-work/lang--en/index.htm> - (accessed 2014-11-14)

⁷ ILO (International Labour Organisation). ILO Constitution, Article 19

out a convention and a recommendation on the subject of the conference agenda. The ILO also provides other types of documents that are of relevance for the legal basis. These documents are in the form of codes of practice, and will be presented further ahead.

2.1.1 Soft Law

Soft law is a term that needs to be explained in relation to international organisations and how soft law effects national legislation. There is not one clear definition of the term, and there is in fact a wide variety of ways to interpret the term. However, there are mainly two ways to describe the term in relation to international law, and both descriptions are in fact rather similar to each other. One way is to explain it as the rules of international law that does not state any obligations or concrete rights for the legal person which they are directed to. These rules are normative but the contents are often vague and rather flexible. Many treaties are in the form of soft law. The other way of explaining soft law is as those guidelines, values, ideas and proposals that in the future might be developed into rules of international law. This is a form of *de lege ferenda*.⁸ Most of ILO standards are soft law in one sense or another.

2.1.2 Conventions

Conventions issued by the ILO are legally binding international treaties. Those member states that decide to sign a convention are meant to ratify them into national regulations.⁹ However, the only legal basis of conventions, are in fact that agreements must be kept, i.e. *pacta sunt servanda*.¹⁰ In ILO a convention is voted on by the ILO conference and when a convention is passed it is communicated to the members for ratification. Members are free to accept the convention, and if they do accept, this is to be presented to the responsible authority or authorities, so that that regulations can be made. The members that have signed a convention need to present to the ILO what actions they have taken to ensure compliance with the convention. If a member state signs a convention and already have a law, custom or agreement in force that is favourable, there shall be no effect to these that can be considered a worsening of the conditions.¹¹

The first convention on OSH, the Occupational Safety and Health Convention no. 155, from ILO was made in 1981. In that convention there are all aspects of what ratifying members should take into consideration concerning health and safety in

⁸ Dixon, Martin, *Textbook on international law*, 6. ed., Oxford University Press, Oxford, 2007, p 50.

⁹ Seth, Torsten, *Svensk internationell arbetsrätt*, 1. uppl., Studentlitteratur, Lund, 2009, p 20.

¹⁰ Dixon, *Textbook on international law*, p 29.

¹¹ ILO (International Labour Organisation). ILO Constitution, Article 19

the workplace. Other conventions concerning OSH have been constructed over the years and two of those that are considered being of greater importance is the Occupational Safety and Health Services Convention no. 161 from 1985 and the most recent from 2006 is the no. 187 Prominent Framework for Occupational Safety and Health Convention.¹² There will be a closer examination of these conventions below.

In 2002 the ILO issued a protocol, which can be seen as a supplement to a convention. This was made to supplement the Occupational Safety and Health Convention no.155 from 1981. The protocol mentions that states should create sufficient systems for reporting work related incidents etc. and that this is necessary for the creation of national statistics. These protocols also need to be ratified by the member states.¹³

2.1.2.1 Final Provisions

All conventions have in common the final provisions. Here it is stated how and when a member is bound by the convention. It is also in here that one finds that the convention will not revise any other standards issued by ILO. Ten years after their ratification members have the option to denounce their compliance to a convention. When needed the Governing Body can present a report on the usefulness of a convention to the conference where it will be decided whether or not there is a need to revise the convention in whole or in part, and at that time the conference may adopt a new convention. This act will denounce the prior convention.¹⁴

2.1.2.2 Convention no 155

The Occupational Safety and Health Convention no.155 from 1981 was ILO's first convention that was of a general basis on the subject of OSH. Prior to this convention there had only been conventions concerning specific risks and areas of OSH.¹⁵

General provisions

The convention was supposed to implicate all workers, however exceptions were made making it possible to exclude some areas in part or as a whole if considered

¹² C187, *Promotional Framework for Occupational Safety and Health Convention*, International Labour Organisation, Geneva, 2006.

¹³ P155, *Protocol of 2002 to the Occupational Safety and Health Convention*, International Labour Organisation, Geneva, 1981.

¹⁴ C155, *Occupational Safety and Health Convention*, International Labour Organisation, Geneva, 1981.

¹⁵ <http://www.ilo.org/dyn/normlex/en/f?p=1000:12030:0::NO::>

(accessed 2014-11-18)

necessary. The convention starts off with a definition of key terms. The definitions state what workers are and how they are related to the workplace among others. One important term is the health in relation to work which states that it is not only disease and infirmity that is of importance but also other aspects of physical and mental illness in relation to work.¹⁶ In the convention it is stated that the member states need to take into consideration their national conditions and practices when creating their national policy or legislation concerning OSH. This is to be done in consultation with the different parties of the labour market. The goal of the policy or legislation is to prevent accidents and injury to health in any way connected to the working environment as far as reasonably possible. It is also necessary that the policies or legislations cover all aspects of work and states that systematic work environment management should be a top priority. It is also significant that workers or their representative are protected from disciplinary actions when enforcing the policy or legislation. The policies or legislations should point out what responsibilities workers, employers and the government have, to make sure that the OSH standards are sufficiently followed. The policies or legislations should state that as the working environment changes there is a need to revise and update the policies or legislations to ensure sufficient coverage.¹⁷

Ensuring compliance with policies or legislations

There is a need to ensure that the policies or legislations are followed. This is to be done through a system of inspections. It should be made clear what the penalties or sanctions are, in case of a violation of the policies or legislations. There should be a system in place that provides guidance to employers and workers on how to comply and abide the regulations that are in place. The system should also ensure that certain aspects are upheld to ensure OSH, and this should be done by the proper authority or authorities.¹⁸

Employer obligations and workers cooperation

One important aspect is to ensure the protection of a worker that halts his or her work due to an imminent threat to his or her life or danger of injury. There should be no negative consequences for halting their work in this case. The convention states the obligations that employers have. For instance, they should make sure that the workplace is safe and that the equipment and machinery is used in a safe and controlled way as to avoid risks to their workers' health, this can be achieved through the adaptation of work in relation to all workers' capabilities. Other obligations are that the employer needs to have sufficient safety regulations regarding work that

¹⁶ C155, *Occupational Safety and Health Convention*, International Labour Organisation, Geneva, 1981.

¹⁷ *ibid.*,

¹⁸ *ibid.*,

involves dangerous substances. The employer is also obligated to provide protective equipment and clothing to prevent accidents that could endanger the workers safety and health. They also need to provide sufficient equipment for dealing with emergencies and accidents. The above mentioned obligations that the employer have, is to be carried out as far as reasonably possible. Workers and their representatives need to cooperate with their employer to fulfil the OSH obligations that are placed upon them.¹⁹

2.1.2.3 Convention no. 161

The Occupational Safety and Health Services convention no.161 from 1985 primarily specifies that the country that ratifies the convention needs to ensure that there are specific services which are entrusted with the responsibility of OSH services. They are to advise the employer, workers and their representatives, help to identify risks within the organisation and participate in developing programs for OSH within the organisation. They are also supposed to collect information on workers' health in relation to work. For a proper ratification of the convention there is a need to state these regulations either in legislation or through collective bargaining.²⁰

2.1.2.4 Convention no. 187

This convention, the Prominent Framework for Occupational Safety and Health Convention, made in 2006, is in many ways similar to the 1981 convention (no. 155), but there are some differences. Instead of only obligating countries to create and implement policies, countries signing convention no. 187 agree to implement and formulate a national policy, establish a national system and program on OSH. The national system has to include laws and regulations, and in some cases even collective agreements on OSH. The system should include an authority or authorities that have responsibility for OSH, including inspections and advisory organs for employers, workers and their representatives. The national system should also include a collection of information, research and statistics over risks, accidents and other aspects of OSH.²¹

A national program, is to be created and implemented by each member, this is to be done in consultation with the strongest parties of the labour market. The program needs to be evaluated and reviewed over time. The program is to present a widely known preventative OSH culture, and is to contribute to the maintaining of the

¹⁹ *ibid.*,

²⁰ C161 - *Occupational Health Services Convention*, International Labour Organisation, Geneva, 1985.

²¹ C187, *Promotional Framework for Occupational Safety and Health Convention*, International Labour Organisation, Geneva, 2006.

national laws and practises that present the elimination and prevention of work-related risks and hazards. Progress is to be measured through set objectives and targets. When needed other programs of national status can be complimentary to the national program, in order to achieve a safe and healthy working environment. It is important that the program is widely spread and preferably endorsed and launched by the highest national authorities.²²

2.1.3 Recommendations

Recommendations serve as non-legally binding guidelines. States are usually keener to reach an agreement if it is a non-binding agreement, as they know that commitment from their part and consequences for non-compliance are non-existent. There is also no need for member states to ratify what has been agreed upon.²³ Recommendations are to be seen as guidelines for the member states as they make legislation and policies on an ILO subject. Recommendations are in comparison with conventions often more detailed and actually specifies minimum standards of performance.²⁴

2.1.4 Codes of practice

Codes of practice are issued by the ILO, and are not legally binding instruments. They are only issued to serve as guidance for enterprises, employers and workers or their safety representatives. Codes of practice are often issued for specific sectors,²⁵ and provide information on how certain hazards are to be avoided, or other health measures that can be taken in these sectors²⁶.

2.2 Non-compliance and sanctions

Accepting the terms of an ILO convention binds the member state to ratify the convention. In the event that the member state does not ratify, or if they do not fully comply with what is stated in the convention, there is a possibility for ILO to demanded compliance. This is done through a number of steps. Firstly there will be recommendations issued on how the member states should comply with the convention by the Commission of Inquiry. In the case that the member state does

²² *ibid.*,

²³ Boyle, Alan E. & Chinkin, Christine, *The making of international law*, Oxford University Press, Oxford, 2007, p 212f.

²⁴ Swepston, Lee. Human rights at work. Supervisory Mechanisms of the International Labor Organization

²⁵ Seth, Torsten, *Svensk internationell arbetsrätt*, p 24.

²⁶ ILO (International Labour Organisation), *Rules of the game – A brief introduction to international labour standards*. Geneva, 2009 revised edition.

not respond to these recommendations within a reasonable time the case is presented to the International Court of Justice (ICJ), and their decision is final.²⁷ If failing to comply with both the recommendation and the decision from the ICJ, it is then up to the Governing Body of ILO to present to the conference their recommendations for suitable actions to ensure compliance in accordance of article 33 in the ILO constitution.²⁸ This is the only sanction that the ILO have, but it is rather efficient, as was proven in the year 2000 when ILO asked their members at the conference to take action towards a specific country that would not comply with a convention. ILO asked the members to put in place a trade embargo. However, most cases end up with ILO pointing out that a country does not comply with an obligation. This can be an effective tool, as public shaming might spur a national debate, which in turn might lead to compliance.²⁹

²⁷ ILO (International Labour Organisation). ILO Constitution, Article 26-34

²⁸ *ibid.*,

²⁹ Seth, Svensk internationell arbetsrätt, p 23f.

3. Occupational Safety and Health in the European Union and the Council of Europe

In this chapter there will be a more detailed presentation of the legal basis about OSH in the European Unions (EU) and the Council of Europe, and how it effect the member states of both organisations. Regulations on the field of OSH will be examined and described. There will also be a short introduction to what the EU is and how it functions. There is finally a reference to the Council of Europe's European Social Charter (191) that covers the right to safe and healthy working conditions as well.

3.1 The European Union

The EU is an economic and political organization created in the wake of World War II. The main concerns are to establish trade agreements between the member countries in different sectors. Over time the EU has developed into an organization that not only focuses on trade agreements but also a number of other matters where working together creates mobility of people, services, goods and capital.³⁰ Within the union there are several institutions; one of them is the European Council which provide the Union with its general political direction and what they are to prioritise. They also provide the power needed for the union to evolve.³¹

Within the EU there is an organisation that focuses only on the safety and health at work and that is the European Agency for Safety and Health at Work (OSHA), whose role is to gather scientific findings and present statistical information to the members. They also provide all information on OSH legislation made by the EU.³² Much like NGOs it is a network that works on OSH within the EU.

³⁰ http://europa.eu/about-eu/index_en.htm

(accessed 2014-11-17)

³¹ <http://www.european-council.europa.eu/the-institution?lang=en>

(accessed 2014-11-17)

³² <https://osha.europa.eu/en/about/organisation>

(accessed 2014-11-14)

3.2 The legal basis of Occupational Safety and Health in the European Union

All legislation in the EU is based on treaties, which need to be signed by all members of the EU and rule the legislative competence of the EU.³³ The legislation in the EU is mostly based on regulations and directives that have a binding effect, but there are also soft law tools, like decisions, recommendations and opinions, which are not binding for the members.³⁴ An important source of law is also made by case law coming from the Court of Justice of the European Union (CJEU).

Members of the EU have different national legal systems, which creates difficulties when the EU is making new legislations on subjects that concern the four freedoms. This has resulted in some subjects receiving less legislations, while other areas, like labour, law have more extensive legislations. OSH is one of those areas that have received an extensive regulation.³⁵

The foundation of legislation on OSH is found in Treaty on the Functioning of the European Union (TFEU). This treaty sets the ground rules for what the EU is supposed to do and how it affects the member states.³⁶ Some provisions on healthy and safe working conditions can be found also in the Charter of Fundamental Rights of the European Union.³⁷ As mentioned earlier, the legislation is issued by the EU in the form of regulations and directives. For OSH legislation only directives are of importance.

3.2.1 The EU Treaties

These treaties are binding agreements between the EU members, which make out the primary law of the EU and in them one can find the objectives and the rules for the institutions, how decisions are to be made and the relationship between the union and its members. Some important treaties still in place are the Treaty of Lisbon, the Treaty on the Functioning of the European Union, the Treaty on European Union and the Charter of Fundamental Rights of the European Union

³³ http://europa.eu/eu-law/decision-making/treaties/index_en.htm

(accessed 2014-11-17)

³⁴ http://europa.eu/eu-law/decision-making/legal-acts/index_en.htm

(accessed 2014-11-17)

³⁵ Nyström, Birgitta, *EU och arbetsrätten*, 4., omarb. uppl., Norstedts juridik, Stockholm, 2011, p 61.

³⁶ 2012/C 326/01, *Consolidated version of the Treaty on the Functioning of the European Union*, European Union, Brussels, 2012.

³⁷ 2012/C 326/02, *Charter of Fundamental Rights of the European Union*, European Union, Brussels, 2012.

(CFREU).³⁸ Another important charter is the Community Charter of the Fundamental Social Rights of Workers (CCFSRW) of 1989³⁹.

The legal efficacy of the two latter is still under debate, even though after the Lisbon Treaty, the CFREU has the same force as EU treaties.

3.2.1.1 Community Charter of the Fundamental Social Rights of Workers

In article 19 of the CCFSRW it is stated that appropriate measures must be taken so that every worker in the union can enjoy satisfactory OSH conditions. These measures include information, training as well as the participation of workers to eliminate or reduce risks in the work environment.⁴⁰

3.2.1.2 Charter of Fundamental Rights of the European Union

CFREU states the fundamental rights for all members of the EU. Articles 31 and 32 are of relevance for OSH, stipulating the workers' rights to a safe, healthy and dignified work, with a limitation of maximum hours of work, as well as their right to daily and weekly periods of rest. It also formulates the protection of young workers and the prohibition of child labour.⁴¹

3.2.1.3 The Treaty on the Functioning of the European Union

As mentioned above, the legal foundation for OSH in the European Union is found in the TFEU, specifically in article 151-156; the directives on OSH have most of their legal basis in article 153.⁴² Article 151 states the union's and members' need to take action to ensure the workers fundamental social rights. These actions may be to promote employment or improve living- and working conditions. In article 152, the union needs to recognise and promote the importance of social partners on a union level, also taking into consideration the differences that exists on a national level when creating legislation. This is done through the tripartite social summit for growth and employment.⁴³

³⁸ <http://eur-lex.europa.eu/collection/eu-law/treaties.html>

(accessed 2014-11-16)

³⁹ *Community Charter of the Fundamental Social Rights of Workers*, The European Council, Strasbourg, 1989

⁴⁰ *Ibid.*,

⁴¹ 2012/C 326/02, *Charter of Fundamental Rights of the European Union*, European Union, Brussels, 2012.

⁴² <https://osha.europa.eu/en/legislation/directives>

(accessed 2014-11-14)

⁴³ 2012/C 326/01, *Consolidated version of the Treaty on the Functioning of the European Union*, European Union, Brussels, 2012.

What the union is supposed to do to achieve the goals set in article 151 is presented in article 153. A number of areas are presented where the union is to help and complement its members, this is accomplished through both adopting measures to encourage collaboration between members, and through directives outlining the minimum requirements needed. Here it is also clear that a member state can, if the parties of the labour market requests, leave it to them to implement a directive. Directives created on the basis of the article should not affect the member states freedom in deciding what type of system they like to have concerning workers social rights. Directives should not keep member states from implementing or keeping legislations that has stronger protective measures, which complies with the treaties.⁴⁴ It is also here in article 153 that the legal foundation of directives can be found concerning OSH.

In article 154 it is specified what the parties of labour market's role is on the union level, in relation to the commission. If the labour market parties on the union level see fit to have a dialogue between them it could result in contractual agreements or relations that is stated in article 155. According to article 156, the commission is to promote cooperation between member states to achieve the goals set in article 151 and shall in close relation with the member states, create an environment where they can discuss issues that occur on a national level but also raise concerns that comes from international organisations.⁴⁵ This is the foundation for organisations like the OSHA.

3.2.2 Directives

Directives are issued by the EU and are legally binding to member states. Directives need to be implemented into national legal statute; if however national legislations already comply with what is stated in the directive, nothing will have to be done. It is left to the states themselves to decide how they should implement the directive. All that is asked is that the objectives of the directive are met. Directives concerning OSH are usually issued with minimum standards, which must be followed by member states.⁴⁶ The area of OSH is regulated through the framework directive 89/391/EEC, and is complemented by specialised separate directives.⁴⁷

⁴⁴ *ibid.*,

⁴⁵ *ibid.*,

⁴⁶ Nyström, *EU och arbetsrätten*, p 33.

⁴⁷ <https://osha.europa.eu/en/legislation/directives>

(accessed 2014-11-14)

3.3 Framework Directive 89/391/EEC

In the EU there was no unified regulation on OSH until the framework directive 89/391/EEC was created. It was an important milestone in the EU when it comes to securing work environment and protecting workers. The directive covers essential aspects of OSH in the EU, but only to a minimum requirement level, and is well in line with the ILO convention no. 155.⁴⁸ The directive is divided into four chapters: General provisions, Employers' obligations, Workers' obligations and Miscellaneous provisions. Everyone but the Miscellaneous provision will here be explained and described, since that provision only outline special risk jobs, which strays away from our research.

3.3.1 General provisions

The purpose of the directive is explained in the General provision chapter as a mean to enhance safety and health for workers in their working environment. To achieve this the directive contains principals on how to minimize risks and accidents, and even guidelines on how these principals should be implemented.⁴⁹

The directive applies to all forms of labour, both public and private companies, with the exception of military, police and other civil-defence organisations. Even though they are excluded they should as far as possible comply with the directive. Definitions of employers, workers and worker representatives are presented, and even a definition of the word prevention. To ensure that the directive is implemented properly member states need to ensure that employers, workers and workers' representatives are subject to the legal provision through supervision and control.⁵⁰

3.3.2 Employers' obligations

Employers are responsible for all of their workers safety and health in regards to work. The obligations laid upon the employer include the following preventative measures: they are obligated to avoid and evaluate risks, even those that cannot be avoided and the employer should strive to do this at the source of the risk. There is a need to adapt the workplace so that the work is not monotonous and a source of risk. This is to be done through adaption to new technical processes, by replacing the dangerous with the non-dangerous or less dangerous. Develop a policy for the preventative work of OSH on all aspects concerning OSH. They are to prioritise the

⁴⁸ <https://osha.europa.eu/sv/legislation/directives/the-osh-framework-directive>
(accessed 2014-11-14)

⁴⁹ Council Directive 89/391/EEC, *on the introduction of measures to encourage improvements in the safety and health of workers at work*. Council of the European Union, Brussels, 1989.

⁵⁰ *ibid.*,

entire workforce's safety before the safety of one individual worker. It is also important that the employer gives his or her workers sufficient instructions on OSH. Other aspects included are arranging contacts with external services, for instance services caring for first-aid, fire-fighting and evacuation of workers when in serious and imminent danger.⁵¹

The employer is to provide one or more workers with the responsibility of carrying out activities related to the protection and prevention of occupational risks. These designated workers are to not be at any disadvantage due to their assignment, and are to be allowed adequate time to fulfil their obligations. If however, a workplace lacks the competent personal to fulfil this obligation, the employer has the right to enlist outside help. This personnel will need to be informed about all aspects concerning OSH in the workplace. Designated workers or external personnel must be competent enough to handle the organization's protective and preventative measures to ensure a safe work environment. In certain cases the employer can, if competent enough, designate himself as the workers' representative. It is up to the member states to decide the scenario for when this could be done, and it is also their job to decide how many representatives that are needed in relation to workers.⁵²

There is an obligation for employers to document risk analyses and also get documents over injured workers and to report this to the designated authorities. Another important aspect of the employer's obligations, is to make sure that workers know about OSH in the workplace, and ensure that workers know what their obligations are. To assure that the workers are fully trained and informed, the employer shall consult the workers and/or their representatives on matters concerning safety and health at work and allow them to come with suggestions on how to improve the OSH.⁵³

If a worker is at the risk of danger and feels the need to leave the workstation for his or her safety, there is a need to protect him or her from any negative consequences when doing this. The employer should also ensure that the workers know that they have the right to leave their workstation if there is an imminent threat or danger to them. They should also know that if there is a serious problem and they cannot contact the person responsible for OSH they have the right to stop the work. The employer should not demand that the workers return to their work if the cause of the workers leaving the workstation is not resolved, only in exceptional

⁵¹ Ibid.,

⁵² *ibid.*,

⁵³ *ibid.*,

cases that are substantiated properly are the employer allowed to ask the workers to return to the workstation.⁵⁴

3.3.3 Workers' obligations

In the chapter Workers' obligations are, as the name imply, the obligations of the workers listed. Each worker is responsible to as far as possible look after his or her own safety and health, but also other workers around that might be affected by their actions. Workers are to follow what has been taught trough instructions and training provided by their employer on OSH, i.e. how to correctly use machinery and protective equipment, refrain from tampering with safety devices, and as soon as possible, when noticing that something is wrong with either the work or the machinery used, inform the employer and/or the safety representative.⁵⁵

It is important that workers cooperate with employer and safety representatives on tasks laid upon them when this has been brought to them from the authority in charge of OSH. There is also a need for workers to help the employer and safety representatives in assuring that the work can be performed in a safe and healthy work environment.⁵⁶

3.4 Sanctions from the EU

Each member state of the EU is obligated to implement directives and this is supervised by the European Commission, in accordance to article 258 of TFEU. If a member state fails to correctly follow the EU law the commission has the ability to make the member state comply or if seen necessary refer the matter to the European Court of Justice (ECJ). Prior to a country ending up in the ECJ the commission can try to pressure the member state to comply voluntarily. If it becomes clear that even after pressure from the commission a member state is still reluctant to comply it is up to the ECJ to make a ruling on the matter.⁵⁷

If the ECJ decides that a member state has failed to fulfil their obligations they are to immediately rectify their wrongdoing. In the event that the commission has to present the case before the ECJ again due to continued non-compliance the court has the ability to impose a fixed or periodic financial penalty.⁵⁸ How much money

⁵⁴ *ibid.*,

⁵⁵ *ibid.*,

⁵⁶ *ibid.*,

⁵⁷ http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/index_en.htm

(accessed 2014-11-19)

⁵⁸ http://curia.europa.eu/jcms/jcms/Jo2_7024/

(accessed 2014-12-04)

the penalty comes with is calculated on the base of the severity of the infringement, for how long the member state has neglected to comply, and the member states ability to pay. The penalty should be large enough to ensure that it has a deterring effect.⁵⁹

3.5 Council of Europe

The Council of Europe is an organisation that ensures that human rights are present within Europe, it also acts as an advisory organ to their members.⁶⁰ The Council of Europe has provided the European Social Charter issued in 1961, which to some extent deals with OSH.⁶¹

3.5.1 European Social Charter

In article 3 of the charter it is stated that all workers have the right to safe and healthy working conditions. Parties that accept the charter are to issue regulation concerning OSH, and are to make sure that the regulations are followed. This is to be done in consultation with the trade unions and employer organisations when appropriate, to improve industrial OSH.⁶²

⁵⁹ http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/financial-sanctions/index_en.htm

(accessed 2014-12-10)

⁶⁰ <http://www.coe.int/en/web/about-us/who-we-are>

(accessed 2014-12-04)

⁶¹ CETS No.: 163, *European Social Charter (revised)*, Council of Europe, Strasbourg, 1996.

⁶² Ibid.,

4. Sweden's Occupational Safety and Health

In this chapter the focus is on the legal basis of OSH in Sweden and an examination of the legislation and the preparatory work made before the Swedish Work Environment Act was established in 1977. It will also provide a deeper understanding of what the punishments could be if violating the legislation or other regulations regarding OSH.

4.1 Development of occupational safety and health in Sweden

The new Swedish Work Environment Act was created in 1977 and substituted previous legislation on the same topic that prior to the act had been spread out in different legislation.⁶³ In Sweden the first legislation on OSH was created in 1889. In 1949 it was reformed into a more general legislation. Over the years this legislation was reformed and complemented. In the 1970's Sweden was experiencing a vast number of new labour legislation and this also affected the OSH legislation. The old legislation was spread out and in need of an update. This was the starting point of the Work Environment Act (AML) that collected all aspects of OSH into one cohesive legislation. Over the years there have been some changes in the legislation and international influences have had a relevant effect. The membership in the EU has had probably the most significant influence.⁶⁴

4.2 Work Environment Act as it is in 2014

As mentioned prior the AML has changed since 1977 when first instated, and the most recent update was done this year, in 2014. AML is designed as a framework legislation, which is complemented through regulations issued by the Swedish Work Environment Authority (AV), as well as by collective bargaining's.⁶⁵

⁶³ Proposition 1976/77:149. *om arbetsmiljölagen m.m.* Stockholm: Regeringen.

⁶⁴ Ericson & Gustafsson, *Arbetsmiljölagen - med kommentar, 2014*, p 15ff.

⁶⁵ <http://av.se/lagochratt/>

(accessed 2014-11-28)

4.2.1 General provisions

The first paragraph in AML, states the purpose of the law, to prevent illness and accidents related to work, and to achieve a satisfactory work environment. All work is covered by AML, i.e. work in private, public and civil sectors.⁶⁶ The work environment needs to be satisfactory and take in to account the workers ability to perform their work. Among many things, this includes ensuring that the workplace is safe, that all equipment that is used comes with safety instructions and that the workers have a place to rest.⁶⁷

4.2.2 Employers' obligations

The employer and employees are asked to cooperate in trying to achieve a satisfactory work environment. However, the main responsibility lies with the employer. The employer needs to take all actions needed and address all safety concerns in order to protect the employees. It is stated that the employer needs to lead, control and systematically plan, to assure that the work environment complies with regulations and legislation.⁶⁸

The legislation on the employer's obligations is extensive, and the employer even needs to ensure that all of his or her workers have an understanding of what the risks and dangers are with their work and how they can be avoided. This is done by providing safety instructions to the equipment used in the workplace, by providing safety clothing when needed and ensuring that the work environment is as far as possible safe and danger free. Furthermore the employer should adapt the work so that the individual workers' specific needs are met. In the case that an employee dies or is badly injured while at work the employer needs to immediately notify the AV, this is also the case when multiple employees are part of the same accident or if there has been an incident that could have resulted in severe injuries. Another obligation that befalls the employer is to provide OSH services to the employees.⁶⁹

4.2.3 Workers' obligations

As mentioned above the obligations concerning OSH also to some extent lie with the employee. Employees need to take part and contribute to achieve a work environment that is satisfactory. They need to follow regulations issued by AV, and when needed use safety equipment provided by the employer, and through precaution prevent accidents and risks to their and others health. In the event that an employee feels that the work that they are performing is no longer safe they need

⁶⁶ SFS 1977:1160, chapter 1, 1-2§§.

⁶⁷ SFS 1977:1160, chapter 2, 1-10§§.

⁶⁸ SFS 1977:1160, chapter 3

⁶⁹ *ibid.*,

to immediately inform the employer and/or the safety representative. They are not to be financially liable for any work not done while awaiting instructions on how to proceed.⁷⁰

Since the workers have the obligation to work together with the employer in ensuring a safe work environment, they are to assign a person with the responsibility of being the safety representative, which is usually done by the workers' organisation that is bound by collective bargaining. If there are more than fifty employees at the establishment, a protection committee can be instated. The safety representative and the protection committee are to ensure that the employer fulfil the requirement placed upon them by law and are meant to represent the employees in matters that concern OSH.⁷¹

Within the duties of the safety representative lays the responsibility to ensure a safe work environment. In the event that the safety representative consider the work no longer to be safe they are to immediately inform the employer there of. In the case that the situation cannot be immediately resolved the safety representative can halt the work and await a statement from AV. A safety representative is not to be interrupted with the work of ensuring OSH. In the event that they are interrupted the employer or employee responsible are to pay for any damage that occurs. The safety representative is never to be negatively treated due to the nature of his or her assignments, and when the assignment as a safety representative ends, they are to be ensured that they will be treated as if they never had the assignment at all.⁷²

4.3 Regulations from the Work Environment Authority

As mentioned most of the obligations that the employer and workers have are regulated by the AV, as a complement to the legislation. In the legislation it is clear that the government can give an authority the obligation to issue regulations, advice and other demands that concerns OSH.⁷³ Regulations are more detailed than the AML, and this is due to the fact that regulations are easier to change in comparison with legislation. This not only makes the overall legislation more compatible with different workplaces, but also ensures adaptation to future concerns.⁷⁴ Issuing regulation is one of AV's most important assignments, as they provide the

⁷⁰ SFS 1977:1160, chapter 3, 1a-4§§.

⁷¹ SFS 1977:1160 chapter 6 §2

⁷² SFS 1977:1160, chapter 6, 4§, 7§, 10-11§§.

⁷³ SFS 1977:1160, chapter 4, 1§.

⁷⁴ Ericson & Gustafsson, *Arbetsmiljölagen - med kommentar*, 2014, p 37f.

framework legislation with content. Some regulations also provide a consequence if not followed, usually in the form of a sanction.⁷⁵

4.4 Legal consequences

In the AML it is stated that a violation of either legislations and/or regulations made by AV can have different legal consequences. Some offences are punished with jail time while others are economic penalties depending on the severity of the offence. Some severe offences may be penalized with both.⁷⁶

4.4.1 Criminal offences

Severe offences against legislations are regulated in the penal code, chapter 3, paragraph 10. It states that in the event that someone intentionally, or due to neglect, has omitted his or her responsibility to prevent ill health and accidents that is connected to the work environment, and this has resulted in either the death of an employee, bodily harm to an employee, causing disease to an employee or leading to reckless endangerment of an employee, they are to be found guilty of breaching work environment legislation. This crime is punishable with imprisonment and/or monetary fines depending on the severity of the crime.⁷⁷

Other offences that are considered criminal offences are non-compliance with injunctions or a prohibition issued by the AV. To be able to execute the punishment, which is either imprisonment or monetary fines, the injunction or prohibition are not to have been placed with a conditional fine from the beginning. It is also possible to be punished with monetary fines if one employs someone that is deemed to be underage in accordance to the legislation, if one breaches regulations made in accordance with chapter 4 or 5. And in the event that someone gives false or no information to the authority when asked to, or removes a safety feature that is necessary to ensure a safe workplace, this may also be seen as a criminal offense. In the event that someone breaks their confidentiality, placed upon them while in a position of trust, this is regulated in the penal code chapter 20 paragraph 3.⁷⁸

4.4.2 Sanction charge

As mentioned earlier the AV has the obligation to issue regulations, as well as to decide what the consequences are for breaching these regulations. Mainly the decision is whether it should lead to a sanction charge, or to an injunction or

⁷⁵ *ibid.* p. 232.

⁷⁶ SFS 1977:1160, chapter 8, 1-3§ and SFS 1962:700 chapter 3, 10§

⁷⁷ SFS 1962:700, chapter 3, 10§.

⁷⁸ SFS 1977:1160, chapter 8, 1-3§§.

prohibition. In the event that a regulation is breached that has an accompanied sanction charge, the regulation shall dictate the method of approach in deciding the amount that should be paid. Sanction charges can vary a lot depending on the size of the company being punished, and it is the employer that is held accountable.⁷⁹

4.4.3 Corporate fines

In the preparatory work to the statute on corporate fines, it is obvious that all crimes inside a company can become subject of corporate fines. This also includes areas that are covered by special legislation like the legislation on work environment. In the event that there has been an offence within the economic activity that is a direct violation of the work environment legislation, the company can be obligated to pay a corporate fine. It is stated that, if a criminal action has occurred, it is of no importance who did the wrong doing. The company is, and will be held accountable for the crime.⁸⁰

Corporate fines can also be issued in conjunction, with another sentence, e.g. in the event that a leading person is charged with criminal offence for a breaching the work environment legislation, the company itself also can receive a corporate fines, due to the severity of the crime.⁸¹ Corporate fines are set to a minimum of 5000SEK and can be no larger than 10 million SEK. When deciding the amount of the corporate fines, the severity of the crime, and its relation to economic activity is taken into account.⁸²

⁷⁹ Ericson & Gustafsson, *Arbetsmiljölagen - med kommentar*, p 263-265.

⁸⁰ Prop. 1985/86:23, p 61-63.

⁸¹ Ericson & Gustafsson, *Arbetsmiljölagen - med kommentar*, p 258-259.

⁸² SFS 1962:700 chapter 36, 7-10a§§.

5. Analysis

Sweden has been a pioneer in regulations concerning OSH. In the era of new labour law during the 70's in Sweden, the legislations on OSH were once again revised and this time transformed into the framework legislation AML. This predates the framework legislation made by the ILO in 1981 and in 1989 by the EU, which made us question if ILO and EU legislation on OSH might have been inspired by Sweden and other Nordic countries and their legislation and not the other way around. Council of Europe's Charter from 1961 (see chapter 3) may have had an influence on the legislative work in Sweden that in turn lead to the AML.

The different framework regulations issued by both the ILO and the EU is very similar to the AML. This tells us that we do comply with the international regulations and the regulations provided by the EU and the Council of Europe. Sweden's legislation not only complies but sometimes even prevails on the international and European framework. These improvements will be the main focus of this analysis. To point this out, we will look at the national legislation and compare it with what is stated in the conventions and the legal mentioned above (chapters 2 and 3).

5.1 Sweden and AML in relation to legislations and regulations by ILO and the EU

As we can see the legal basis for the ILO is found in its constitution, its primary legislation is through treaties in the form of conventions. Conventions must be ratified for them to have any binding effect on the member state. As noted earlier conventions are often supplemented with recommendations that contain further regulation beyond the minimal standards put in place by the convention. These guidelines can be helpful to countries when creating national legislation. Regarding OSH there are three conventions of great importance for the framework of OSH. These conventions mentions certain requirements that needs to be taken into consideration and we will look at when Sweden have presented regulations that goes beyond these minimal requirements or have made their regulation in a different way.

For instance, one difference we noticed is the fact that in the convention no. 155 all areas of labour is implied, but certain areas of labour can be excluded. In AML no area of labour is excluded and all kinds of employment are covered by the

legislation. Another difference is that in AML it is stated that employers need to adjust the workplace with regards to the individual employee's need: this cannot be found in any of the conventions, and instead there is only a need to adjust the work in regards to all workers. This is of great importance for people with different kinds of disabilities. With this Sweden makes an important statement for democracy.

The regulation in AML that allows safety representatives to stop all work if considered dangerous and await statement from AV if the employer cannot immediately resolve the situation is something that has no equivalent in any international or European legal document. The national legislation also provides the context where there is a need for safety representatives and their obligations, even though no convention mention the need for safety representatives or their obligations, and they only talk about workers and workers representatives in general.

ILO primarily focuses on that members should have regulations regarding OSH rather than providing an extensive list of what these regulations should include in conventions. Our guess is that the more detailed regulations are to be found in recommendations and in their codes of practices. Since they are non-binding, no record is kept on countries that use or follow these guidelines. It is hard to tell if they have any effect on national legislation.

The EU binds its members through treaties that establish the legal foundation of the union. There are as we can see multiple treaties and charters that establish the right for workers to have a safe and healthy work environment. All of these are to be followed since they have a binding effect on the member states. The treaties provide as we have said the legal basis for the EU directives and on OSH it is the framework directive that sets the rules for how members are to implement legislation on OSH. As the framework directive is set to minimal standards, a member is free to implement regulations within the legislation that are stronger than required by the directive. We will point out some areas where Sweden have implemented stronger regulations or have regulated a matter differently than the EU.

Like the conventions from ILO, the EU directive states that certain areas of work can be excluded, and as we have already pointed out all work is included in AML. The directive is also similar to the conventions in regards to what we said about safety representative's right to stop work that is considered dangerous and await statements from the AV, but in contrary to ILO there is a demand for safety representatives, even though it isn't as distinct as in Sweden. A major difference comparing the directive with AML is that in the directive the employer is the one that appoints a worker or workers with the responsibility of being safety representative, and can appoint himself in the event that there is no employee

competent enough. In AML it is strictly stated that this obligation befalls the trade union that is bound or used to be bound by a collective bargaining, and at no point can the employer himself be appointed with the responsibility of being the safety representative.

There are not that many differences to be found, but those that are, are actually rather important. For instance the part where EU allows employers to appoint themselves as safety representatives are for us a bizarre thought since the idea of having a safety representative is to ensure that the workers perspective of health and safety is in focus. Health and safety are associated with costs that are necessary for the ensuring of good OSH. If the employer has the option of being the safety representative he might try to cut costs regarding OSH and have no one that hinders him/her which defeats the purpose of having a safety representative. However, we can also understand why EU have made the directive in such a way since they have to consider all of their members' different legal systems and make the directive applicable on all of them.

The reason why Sweden felt the need to implement stronger regulations regarding OSH in some aspects is interesting and something that could be due to the strong influence the trade unions have both on the labour market but also on the politics in Sweden.

5.2 Effectiveness of sanctions

When looking at the sanction system from ILO and the EU, it is obvious that they use rather different means to ensure that their members comply. While the system of sanctions provided by the EU actually has repercussion the sanctions from ILO can be considered weak and inefficient. Leaving it up to the members to take action against other members could be an effective measure, but this has only been done once. This might be because of the risks of turning members against each other and it might also lead to members ratifying fewer conventions and distance themselves from the ILO. The sanction system we believe is not balanced enough, there are only two options: shaming a member, or the repercussions from other members that can result in trade embargos. We believe that there is a need for ILO to implement monetary fines. This could also give the ILO a stronger legal basis that deters non-compliance, and won't scare the members from ratifying the conventions. However, there is a chance that fines could scare member states as well from signing conventions.

The sanctions issued by the EU are, as we know, in the form of monetary fines. These sanctions are supposed to make a lasting impression on the members that fail to comply with the legislation (the treaties and the directives). This form of

penalties is very effective once put in place. However, we believe that the long process before the penalty put in place actually ensures that the members comply before having to pay these extensive fines. It might be easier for the EU to ensure that its members comply with the EU legislation, since they have an actual penalty for non-compliance in comparison with the ILOs soft law.

Since both ILO and the framework directive leave it up to the ratifying country to decide what the sanctions should be for not complying with the national legislations, but both conventions and the directive make it very clear that a sanction system should be as effective as possible to have a deterring effect. In Sweden violations are rectified through either monetary fines or sometimes even with imprisonment. It is hard to tell if these types of penalties are effective. When comparing this to the sanctions issued by the EU imposed on the non-complying member state, that, as mentioned, are supposed to make a lasting impression, the Swedish monetary sanctions toward an employer/company doesn't seem as harsh. Can these actions toward a company really leave a long lasting impression? The amount of the corporate fines, are rather low and we question if they actually have any effect at all. The maximum fine of 10 million Swedish kronor, is a small amount for a huge company. However, it might have an effect if the company is imposed repeatedly with large fines. In our minds the most efficient sanction might be the imprisonment facing the company leaders. Since the regulations and obligations set by AV is accompanied with a sanction charge it is easier for companies to understand what the consequences are for breaking the regulation. This we feel is of great importance, since it is only through the employers understanding their responsibility that in the end will result in a good OSH in the workplace.

The problem that occurred to us while doing this study was that the subject of OSH is vast and that the legislation made by both EU and the ILO are general statements of ideas, which are put into rather unspecific frameworks. These frameworks are then complemented with other legal documents (recommendations, codes of practises etc.) with narrow specific regulations for controlling certain dangers e.g. radiation, asbestos, rest periods etc., or areas of labour e.g. maritime, agriculture or mineral extracting industries etc. All of these different documents makes the field of OSH rather unmanageable. This can be seen on the Swedish level as well since the AML is complimented by regulations and advice from AV. For a person in charge of OSH there is a need to fully understand the regulations and obligations and with the oceans of documents there is this can be an immense task. Just finding the right document can be a challenge. We believe that there might be a need for a more transparent system that makes it easier to understand and follow regulation regarding OSH.

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