**Response of the Croatian Authorities regarding the rights of workers and protection from exposure to toxic and otherwise hazardous substances**

**In general:**

Respect, protect and fulfil the human rights, included the rights of workers, is guaranteed by the Constitution of the Republic of Croatia and national laws. Implementation of laws regarding the human rights as well as the right of worker is regulated by ordinances.

**The Constitution of the Republic of Croatia** (Official Gazette No. 56/90, 135/97, 08/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10, 05/14) laid down in its fundamental provisions that “freedom, equality, national equality and gender equality, peacemaking, social justice, respect for human rights, inviolability of property, the preservation of nature and the human environment, the rule of law and the democratic multiparty system are the highest values of the constitutional order of the Republic of Croatia”. In the title “Human rights and fundamental freedom protection” is pointed out that “everyone in the Republic of Croatia has rights and freedoms, regardless of race, colour, sex, language, religion, political or other belief, national or social origin, property, birth, education, social status or other characteristics“.

Among guaranteed economic and social rights is the right of everyone to work, the right of employees and members of their families to social security, which is regulated by law and collective agreements, as well as the right to health care in accordance with the law. It is the duty of all citizens to protect children and helpless persons. Youth, mothers and persons with disabilities are entitled to special protection at work. Children should not be allowed to work before the age specified in the law, nor be forced to work that adversely affects their health or psyche, nor can such work be permitted.

It is highlighted that everyone has the right to a healthy life and the State shall ensure conditions for a healthy environment. Everyone is obliged, within its powers and activities, to pay special attention to protect the health of people, nature and the human environment.

It is important to point out that the international treaties that have been concluded and ratified in accordance with the Constitution and published, and which are in force, form part of the domestic legal order of the Republic of Croatia and are legally enforceable above the law. The Republic of Croatia as a Member State of the European Union, participates in the creation of European unity in order to ensure lasting peace, freedom, security and prosperity together with other European states and achieve other common goals in accordance with fundamental principles and the values on which the European Union is founded. The implementation of rights deriving from the acquis communautaire is equal to the applying of rights guaranteed by the Croatian legal order.

**The Labour Act** (Official Gazette No. 93/14, 127/17; the English version available at: <http://www.mrms.hr/wp-content/uploads/2015/03/labour-act.pdf>) regulates employment relationships in the Republic of Croatia and it is fully aligned with all EU regulations and relevant jurisprudence of the EU Justice Court.

Related to the health and safety of workers, the Labour Act lays down the employers’ obligation to ensure work for an employed worker and pay remuneration for the work performed. The employer is entitled to determine the place and the manner of performing the work, and must respect the worker's rights and dignity. Any direct or indirect discrimination in the area of labour and working conditions shall be prohibited, including the selection criteria and requirements for employment, advancement in employment, professional guidance, education, training and retraining. The employer’s obligation is to ensure safe working conditions with no detrimental effects to the health of worker, in accordance with a special law and other regulations. The employer is obliged to provide and maintain plants, machinery, equipment, tools, workplace and the access thereto, and to organize work in such a manner so as to ensure the protection of life and health of workers, in accordance with specific provisions and the nature of work performed. The employer’s obligation is to inform the worker about any dangers pertaining to the work performed by the worker. The regulations on safety and health at work, collective agreements and working regulations must appropriately be made available to the workers.

Workers are obliged to perform the work following the instructions provided by the employer in line with the nature and type of work as well as to comply with all safety and health protection measures in accordance with specific provisions. And the employer is obliged to train the worker for the work to be performed in such a manner so as to ensure the protection of the worker's life and health and prevent accidents.

The Labour Act regulates protection of vulnerable categories of workers such as minors and pregnant workers. The Act stipulates the prohibition of certain works by minors which can harm their safety, health, morals or development, the supervision of certain works, the working hours in day, the prohibition of night work, the daily period of breaks and the duration of vacation. For example, it is prohibited to employ a person under fifteen, of fifteen or above fifteen years of age and under eighteen years of age who is still subject to compulsory full-time elementary schooling. Without a prior health assessment the employer may not employ a minor for works that can be performed by the minor only after such an assessment.

By the Labour Act it is also regulated the protection and the prohibition of discrimination of pregnant women, women who have recently given birth or are breastfeeding, which include the prohibition of dismissal is also regulated. For example, the employer is obliged to offer a pregnant woman, a woman who has recently given birth or is breastfeeding within the meaning of a specific provisions, who performs works that have harming effects on her or the child's life or health, an appendix to the employment contract during the entitlement period providing for a fixed-term performance of other appropriate tasks. Or, during pregnancy, maternity, parental or adoption leave, periods of part-time work, periods of short-time work due to intensified childcare, the leave of pregnant woman or a breastfeeding mother, and the periods of leave or short-time work due to the care for a child with serious developmental disabilities, and within fifteen days after the end of pregnancy or the end of use of such entitlements, the employer may not terminate the employment contract of the pregnant woman and a person exercising any of these rights.

The Labour Act prescribes the prohibition of dismissal due to a temporary incapacity for work caused by an injury at work or an occupational disease and workers are entitled to a severance pay in case of an occupational injury or disease. For work involving exposure to harmful effects, in spite of the implementation of occupational safety measures, the working time shall be shortened in proportion to the harmful effects on the worker's health and capacity for work.

**The Occupational Safety and Health Act** (Official Gazette No. 71/14, 118/14, 94/18, 96/18; further in text: OSH Act; the English version available at: <http://www.mrms.hr/wp-content/uploads/2015/08/OSHA.pdf>) is fully aligned with all EU regulations and relevant jurisprudence of the EU Justice Court. It brings about the uniform regulation to the field of occupational safety, whereby the employers’ and workers’ obligations and institutions’ jurisdictions over monitoring and improvement in the field of occupational safety are prescribed to the complete extent.

The OSH Act regulates the occupational health and safety system in the Republic of Croatia, in particular national policy and activities, general principles of prevention and OSH regulations, employer’s obligation, rights and obligations of workers and their commissioner for OSH, activities in relation to OSH, supervisor and misdemeanour liability. General principles for prevention of risk at work and health protection, regulation for the elimination of risk factors, procedures for workers’ OSH training, informing and consulting are prescribed by this Act as well as additional requirements for the protection against specific risks at work to particularly vulnerable groups of workers. It is important that the emphasis of the role of OSH inspectors is put on the use of preventive rather than the repressive powers.

An assessment of risks at the workplace is obligated and it must be done by employers, but workers have the right to be included in this procedure and informed about it. Risk is defined as a product of the probability of occurrence of a hazardous or harmful event and the harms of the event i.e. its consequences. Hazards are all conditions at work and related to work which may endanger health and safety of employees – one after the other, there are: mechanical hazards, dangers of falling, dangers of electric current, fire and explosion, and thermal hazards. Harms are the chemical, biological and physical harms which may cause damage to the health of employees and others exposed to them. Besides hazards and harms, there are exertions (statodynamic efforts, psychophysical efforts…) that could be present during working with hazardous substances and that should be also included in a risk assessment.

Making a risk assessment, employers shall be obliged to, taking into account the work and its nature, assess the risks to life and health of employees and people at work, particularly in relation to the means of work, the work environment, technology, physical harms, used chemicals or biological agents, design of the workplace, the organization of work processes, work monotony, statodynamic and psychophysiological exertions, work at a set pace, result-based work in a given period of time (normative work), night work, mental workload and other risks that are present, for the purpose of preventing or reducing the risk.

On the basis of risk assessment the employer shall be obliged to apply occupational safety and health rules, preventive measures, organize and implement work and production procedures, i.e. methods as well as undertake other actions to prevent and reduce the exposure of workers to the identified risks in order to avoid or to reduce to the lowest possible level the likelihood of injuries, occupational diseases or diseases in relation to work with the purpose of providing a better level of OSH at all stages of work and management.

It needs to be emphasized that omissions in the procedure of risk assessment (e.g. failure to perceive the likelihood of occurrence of hazardous or harmful event at work or in relation to work, incorrect assessment of harmfulness of the event, i.e. underestimation of its harmful effects, etc.) do not absolve the employer from obligations and liabilities in relation to occupational health and safety.

**The Chemicals Act** (Official Gazette 18/13, 115/18) prescribes the conditions that legal and natural persons must fulfill to carry out the activities of production, placing on the market and use of chemicals as well as the conditions for performing service or mediation activities which do not come into direct contact with chemicals. The aim is to protect human life and health and to protect the environment from the harmful effects of chemicals.

**The Environmental Protection Act** (Official Gazette No. 80/13, 153/13, 78/15, 12/18, 118/18) regulates: the principles of environmental protection within the concept of sustainable development, environmental protection and environmental protection from the impact of the loads, environmental protection subjects, sustainable development and environmental protection documents, environmental protection instruments, environmental monitoring, environmental information system, insurance access to environmental information, public participation in environmental issues, access to justice, environmental damage liability, financing and general environmental policy instruments, administrative and inspection supervision, and other related issues.

**The Health Care Act** (Official Gazette 100/18) regulates the principles and measures of health care, the rights and obligations of persons in the use of health care, social care providers for the health of the population, the content and organizational forms of healthcare activities and the supervision of healthcare activities.

**The Act on the List of Occupational Diseases** (Official Gazette No. 162/98, 107/7) establishes diseases which are considered as occupational diseases and conditions under which these diseases are considered as occupational diseases. A professional illness is considered to be a disease that is proven to be a consequence of an adverse effect on the work process and / or the working environment, or a disease known to be a consequence of the effects of work-related and / or work-related harm, and the intensity of the harm and the duration of exposure to this harm are at a level known to cause damage to health.

**The Ombudsman Act** (Official Gazette 76/12) regulates the scope and manner of working, the conditions for the election and dismissal of the Ombudsman and his deputies and cooperation with the Ombudsman for the Child, the Gender Equality Ombudsperson and the Ombudsman for Persons with Disabilities.

**The Privacy Act** (Official Gazette No. 79/07, 86/12) and **the Act on Protecting the Confidentiality of Data** (valid only in one part, i.e. the Title VIII. Business secret and the Title IX. Professional secret; Official Gazette No. 108/96) establish the notion of classified and unclassified data, degree of secrecy, classification and declassification procedure, access to classified and unclassified data, their protection and supervision over the implementation of this regulations.

**The Mandatory Relationship Act** (Official Gazette No. 35/05, 41/08, 125/11, 78/15, 29/18) regulates the basics of mandatory relationships as well as contractual and non-binding mandatory relationships. The participants freely regulate mandatory relationships, but not in contravention of the Constitution of the Republic of Croatia, compulsory regulations and the morals of society.

**The Criminal Law** (Official Gazette No. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18) defines that criminal offenses and criminal sanctions are only prescribed for conduct that violates or endangers personal freedoms and human rights, as well as other rights and social values guaranteed and protected by the Constitution of the Republic of Croatia and international law, so that their protection cannot be achieved without criminal law enforcement.

**The Act on Liability of Legal Persons for Criminal Offenses** (Official Gazette No. 151/03) determines the prerequisites of punishability, criminal sanctions and criminal proceedings for criminal offenses of legal persons.

The implementation of laws is regulated by ordinances specified for certain sectors. There are a few ordinances important for protection from exposure to toxic and otherwise hazardous substances.

**The Ordinance on Protection of Workers from Exposure to Hazardous Chemicals at Work, Occupational Exposure Limit Values and Biological Exposure Limit Values** (Official Gazette No. 91/18) lays down the obligations of the employer and the minimum requirements for the safety and health protection of workers against the risk of working with hazardous chemicals (substances and mixtures), including the prevention of risks, and it prescribes the exposure limit values for hazardous substances that may be present at workplaces as a result of any working activity. The provisions of this Ordinance apply to all working activities where workers are exposed or are likely to be exposed to hazardous chemicals.

This Ordinance also prescribes short-term exposure limit values and biological exposure limit values for certain hazardous substances.

The provisions of this Ordinance also apply to the transportation of dangerous chemicals, but only in cases where they prescribe a higher level of safety and health at work in relation to special regulations for transportation of dangerous chemicals.

This Ordinance applies to the protection of workers from the risk of exposure to asbestos only when it prescribes a higher level of safety and health at work than the one prescribed by the Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work and prescribes exposure limit value for asbestos (0.1 fibers per cm3).

Health hazards refer to hazard categories defined by the criteria in Part 3. of Annex I of Regulation (EC) No 1272/2008, and they include chemicals classified as: acutely toxic, skin corrosives/skin irritants, serious eye damages/eye irritants, respiratory or skin sensitisers, germ cell mutagens, carcinogens, reproductive toxicants, specific target organ toxicants - single exposure, specific target organ toxicants - repeated exposure and aspiration toxicants.

The occupational exposure limit values for certain substances listed in the EU directives: Directive 2017/164/EU, Directive 91/322/EEC, Directive 2000/39/EC, Directive 2006/15/EC and Directive 2009/161/EU are adopted by this Ordinance in Annex I and are legally binding.

Besides general regulations for hazardous substances, the Ordinance contains special provisions and additional rules which need to be applied in case of working with carcinogenic and mutagenic chemicals.

This Ordinance lays down the obligations of the employers with hazardous chemicals at workplace, which include provisions on identifying and assessing of risks, general principles of risk prevention, special preventive and safety measures, measures in case of accidents and work process disruptions and informing and training of workers.

The employer is obliged to provide adequate health monitoring to the workers for which the risk assessment results indicate a health risk due to exposure to hazardous chemicals.

When results of health surveillance show that worker’s exposure to hazardous chemicals can be attributed to development of recognisable disease or harmful effect on worker’s health, these results will be taken into consideration when undertaking preventive measures at the specific workplace. Health monitoring includes specific methods for detecting signs of illness or harmful effects of chemicals on target organs or organ systems, including available tests for detection of chemicals and their metabolites.

Occupational medicine specialist is obliged to keep records on health examination due to exposure to hazardous chemicals and to recommend measures to employer for preventing damages to workers health. On worker’s request, occupational medicine specialist must provide data on his / her health condition determined during health surveillance, and the employer must provide access to the information on his / her exposure to chemicals. If health surveillance detects development of disease or harmful effects on worker’s health, which, in opinion of occupational medicine specialist, are caused by exposure to hazardous chemicals, occupational medicine specialist informs the worker about such results. In this case, employer must re-check the status of the risk assessment, review the measures for risk elimination or reduction, comply with the opinion of occupational medicine specialist and ensure continuous health monitoring of any worker who was exposed in similar way.

This Ordinance contains seven Annexes, which prescribe EOLs, guidelines for establishing extent of consequences when working with hazardous chemicals, list of substances, mixtures and procedures as additional criteria for hazard classification of “carcinogen” of category 1A or 1B, classification and labelling of hazardous substances and mixtures in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures. Additional value of the Ordinance is Annex VI which contains practical recommendations for health monitoring of workers exposed to carcinogenic and mutagenic substances.

**The Ordinance on making Risk Assessment** (Official Gazette No. 112/14) prescribes conditions and methods of risk assessment, how to make it, compulsory contents covered by the assessment and the data on which the risk assessment is based as well as the classification of hazards, harms and efforts at work and in relation to work. Minimum requirements to be met during assessing risk are also prescribed by this Ordinance.

**The Ordinance of Jobs with Special Working Conditions** (Official Gazette No. 5/84) prescribes jobs with special working conditions and special conditions to be met by workers to perform these jobs. Jobs in which workers are exposed to physical or chemical damages during the prevailing part of full time are among them. In order to prevent the harmful effects of labour on the life and health of workers, in addition to the general conditions for employment, special conditions must be fulfilled in terms of age of life, sex, professional abilities, health status and psychic ability. The ability of a worker to perform jobs with special working conditions in terms of his / her health or mental capacity shall be determined prior to his or her appointment to such work, and it will be checked permanently within a certain time frame. When it comes to re-checking health status and psychic ability, it is determined whether a worker has suffered health damage or changes in his / her mental status have been occurred that could be contraindications for performance jobs with special working conditions.

**The Ordinance on Occupational Health and Safety in the Workplac** (Official Gazette No. 29/13) lays down minimum occupational safety requirements for workplaces. Among general requirements there is a condition that “in workplaces where physical, chemical and biological hazards are present, workers must be protected from their harmful effects in accordance with occupational safety and other regulations”. Outdoor workplaces must be arranged in manner that workers are protected from harmful physical, chemical or biological effects. Indoors workplaces must be provided with favourable working conditions, appropriate for humans in terms of temperature, humidity and airflow rates.

**The Ordinance on using Personal Protective Equipment** (Official Gazette No. 39/06) prescribes the general obligations of employers in relation to the personal protective equipment used by workers during their work as well as the employers’ obligations with regard to the assessment of personal protective equipment and with regard to inform, consult and cooperate with workers. Personal protective equipment means equipment that the worker carries, holds or otherwise uses at work in manner to protect him / her from one or more risks related to his / her safety and health. This equipment is used at workplaces where it is not possible to eliminate the risks to safety and health, and in cases where the employer can not sufficiently reduce risks by applying basic safety rules at work or by an appropriate organization of work. The employer is responsible for determining type of personal protective equipment on the basis of risk assessment and taking into account the level of risk, the frequency of exposure to risks, the characteristics of the workplace and the circumstances, the time and the conditions in which the worker must use this equipment. The worker is obliged to use the prescribed personal protective equipment.

**The Ordinance on Safety and Health Protection of Pregnant Employees, Employees who have recently given Birth and Employees who are breastfeeding** (Official Gazette No. 91/15) prescribes risky jobs and jobs that under no circumstances may be performed by workers listed in the title.

**The Ordinance on Conditions and Method of Completion and Verification of Knowledge for Protection from Hazardous Chemicals** (Official Gazette No. 99/13) lays down the conditions and the method of acquiring and checking the knowledge on the protection of hazardous chemicals for workers prior to commencement of work with hazardous chemicals and the additional knowledge acquisition of workers on the protection of hazardous chemicals during work.

**The Ordinance on Conditions for performing the Activities of Production, placing on the Market and use of Dangerous Chemicals** (Official Gazette No. 99/13, 157/13, 122/14) lays down special conditions to be met by legal entities and persons performing the activities of production, placing on the market (wholesale and retail sales) and the use of hazardous chemicals labeled as: very toxic chemicals; toxic chemicals; harmful chemicals; corrosive chemicals; carcinogenic chemicals of categories 1, 2 and 3; mutagenic chemicals of categories 1, 2 and 3 and reproductive toxicants of categories 1, 2 and 3.

**The Ordinance on the Conditions regarding Special Occupational Safety Measures in Legal Persons working with Poisons that are being used for Scientific Research** (Official Gazette, No. 148/99) lays down conditions for special protection measures at work with poisons in legal entities using poison for scientific research purposes.

**The Ordinance on the Rights, Conditions and the Exercise of Rights of Compulsory Health Insurance in the Event of Occupational Injury and Occupational Diseases** (Official Gazette, No. 75/14, 154/14, 79/15, 139/15, 105/16, 40/17, 66/17, 109/17, 132/17, 119/18) regulates the rights and obligations of compulsory health insurance in the case of occupational injury and occupational diseases, including specific health care measures of employees, the procedure of identification and recognition of occupational injuries or professional illness, and the procedure for identifying and recognizing another illness(es) as a result of already recognized occupational injury or occupational disease of the health insured persons, as well as the scope of the rights, conditions and the manner of their realization.

**In particular:**

1. **Principles on duties and responsibilities to prevent exposure**

The Republic of Croatia has adopted legislation that is in compliance with the international and European law, in order to respect, protect and fulfil the right of workers. The rights of workers and their implementation as well as responsibilities of consumers, the military, investors and others are regulated precisely by laws. By laws it is set up the responsibility of business enterprises to ensure the exercise of the workers’ rights.

Ad Principle 1 – Everyone has a right to be protected from toxic exposures at work:

The just and favourable conditions of work, including the right to be protected from toxic exposures at work, without distinctions of any kind, in the Republic of Croatia are guaranteed by the Constitution as well as by laws – specifically by the OSH Act and the Labour Act. The organization and implementation of occupational health and safety is up to employers. They are obliged to organize and implement OSH, taking into account risk prevention as well as informing, training, organization and resources. They are also obliged to implement prevention in all work processes, in work organization and in the management of work processes, whereby the highest possible level of safety at work for the employees must be ensured.

Protection of all workers, especially those most vulnerable or at risk – such as children, women of reproductive age, migrant workers and their families, older persons and persons with disabilities – is guaranteed by the Labour Act and the OSH Act. For the purpose of implementation of special protection at work, the employer is obliged to indicate potentially risky works for particularly vulnerable groups of workers in the risk assessment.

The maximum permitted exposure limit value for each harmful substance is prescribed by the Ordinance on Protection of Workers from Exposure to Hazardous Chemicals at Work, Occupational Exposure Limit Values and Biological Exposure Limit Values. Employers are responsible for the organization and implementation of OSH of employees in all segments of the organization of work and in all work processes. They are obligated to inform workers in details about it. Data on toxic and hazardous substances in use in working process must be available, all dangerous substances have to be marked with the international pictograms and a safety data sheet (SDS) of each toxic and hazardous substance must be available. If a worker is injured performing duties or he / she gets sick due to an occupational disease, the employer shall be liable for it according to the principle of objective liability.

It is important to point out that one of general principles of prevention is the prevention of risks at their sources, then follows replacing the hazardous by the none or less hazardous, and the protection from chemical harmful effects is one of basic OSH rules. Regarding the use of hazardous chemicals at work, the employer is obliged to continuously improve OSH by applying less hazardous and less harmful technologies, work procedures and work substances.

The sequence of procedures related to hazardous chemicals is prescribed:

a) The employer may use hazardous chemicals only if he cannot achieve the same work results by applying harmless chemicals;

b) If it is not possible to replace hazardous chemicals with harmless or less harmful chemicals, the employer is obliged to determine whether the application of another work process can reduce the risk or harm of their use;

c) If using hazardous chemicals, the employer shall be obliged to apply OSH rules in the following sequence:

1) use closed systems, if it is possible according to the type of work and the state of the technology

2) drain hazardous gases, vapours, dust, and aerosols whose release cannot be prevented from the site where they were formed, or outside the working environment, in a way that during draining the human environment is not polluted

3) if it is not possible to drain hazardous gases, vapours, dust and aerosols from the site where they were formed, the following should be restricted to a minimum:

- the amount of hazardous chemicals

- the number of employees exposed to the hazardous chemicals

- the time the employees are exposed to hazardous chemicals;

d) if above mentioned cannot be achieved, ensure that workers use prescribed personal protective equipment when working with hazardous chemicals.

The detection of hazardous substances concentrations at workplaces is laid down by the Ordinance on Protection of Workers from Exposure to Hazardous Chemicals at Work, Occupational Exposure Limit Values and Biological Exposure Limit Values. It must be based on a detailed understanding of the technological process or working procedure in order to establish the likelihood of occurrence of certain dangerous substances in the breathing zone of workers. In case of accidents and work-related disturbances due to dangerous chemicals, the employer must establish procedures, including plans and evacuation procedures, as well as means and equipment for first aid.

Ad Principle 2 – States have a duty to protect the human rights of all workers through the prevention of exposure to toxic substances:

The Republic of Croatia does everything in its power to protect all workers from occupational exposure to toxic and hazardous substance. By the Constitution and legislation equal standards of all protection, in which the OSH protection is included, are guaranteed regardless of income, age, gender, ethnicity, race, religion or other class or status. The heightened protection is guaranteed to minorities, persons with disabilities and migrants as well as to minors and pregnant women, women who have recently given birth and women who are breastfeeding, workers suffering from occupational diseases and workers identified with a partial work capacity and a partial loss of work capacity.

The OSH Act prescribes in details additional requirements for the protection against specific risks at work to particularly vulnerable groups of persons.

A minor may not perform work with special conditions (such as work with dangerous chemicals etc.), except for minors who have completed vocational secondary education for this work and who meet other prescribed requirements. With the aim of minors’ OSH protection, the employer is obliged to adjust conditions and working time organization for the purpose of eliminating OSH risks, to ensure other appropriate work or a workplace if adjustments are not feasible or justifiable, to ensure the implementation of other occupational OSH rules in accordance with a special regulation.

The special OSH measures for pregnant employees, employees who have recently given birth and employees who are breastfeeding include the adjustment of the working conditions and working time organization, the opportunity to perform other appropriate work i.e. work at a different workplace, if adjustments are not technically feasible or justifiable at the workplace where they worked prior to pregnancy or childbirth. Pregnant women and women who are breastfeeding must under no circumstances perform any work for which it is estimated to be a risk of exposure to dangerous chemical substances (for example, lead and lead derivatives, if there is a risk that the human body absorbs these substances). The employer is obligated to estimate risks of hazardous chemical substances regarding to their mutagenic effect, carcinogenicity, reproductive toxicity and specific target organ toxicity after single exposure.

The implementation of special OSH measures to prevent further damage to the health and the ability to work is prescribed to workers have been identified as having an occupational disease, to workers for whom the partial work capacity and a partial loss of work capacity has been determined, or to workers exposed to immediate risk of reduction of work capacity.

Besides appropriate steps to prevent, inspect and provide compensation for cases of occupational exposures to dangerous substances through legislation and effective policies, the European campaign “Healthy Workplaces: Manage Dangerous Substances 2018-2019”, initiated by the European Agency for Safety and Health at Work, is actively carried out. The main objectives is to raise awareness of the importance of preventing risks from dangerous substances, to promote risk assessment as well heighten awareness of risk linked to exposures to carcinogens at work.

Ad Principle 3 – Business enterprises have a responsibility to prevent occupational exposures to toxic substances:

The obligations of the employer in implementing occupational health and safety are prescribed by the OSH Act and the ordinances passed on the basis of this law. The purpose of the OSH Act is a systematic improvement of safety and health protection of employees and persons at work, prevention of injuries at work, occupational diseases and other work-related diseases. So, business enterprises are obligated to carry out the continuous improvement of working conditions, which also includes conditions at workplaces where dangerous toxic substances are in use in case they could be eliminated.

For the purpose of improving safety and health protection at work, by the OSH Act there are prescribed general principles for prevention of risk at work and health protection, regulation for the elimination of risk factors, procedures for training employees as well as information and consultation procedures for employees and their representatives with employers and their authorized persons.

The specific OSH rules, which also refer to work with hazardous substances, are determined as follows:

1) If risks to health and safety of employees cannot be eliminated or can only be partially eliminated by applying basic occupational health and safety rules, specific occupational health and safety rules related to the employees, to the way of conducting work and to work processes shall additionally be applied;

2) Special OSH rules include requirements relating to age, sex, completion of professional education and other forms of education and training for work, health, physical state, psycho-physiological and psychological abilities which employees must meet when performing work with special working conditions;

(3) Specific OSH rules contain both rights and obligations in relation to:

1) the organization of work time and rest

2) the use of appropriate personal protective equipment

3) special procedures while using or being exposed to physical harms, hazardous chemicals, i.e. biological harms

4) placing safety signs which provide information or instructions

5) instructions on work processes and ways of conducting work, particularly with respect to the duration of work, performance of monotonous work and result-based work in a given period of time (normative work) and the exposure of employees to other exertions at work or in connection with work

6) procedures for an injured or ill employee up to provision of emergency medical care i.e. up to their admission to a health institution.

The prescribed preventive and protective measures are requirements in connection with health, physical, psychical and other abilities of workers, facilities, working spaces and conditions, tools and equipment for work, technological processes, working hours, organization of work, etc. – all that aimed to ensure adequate occupational safety and health at work. In praxis they are divided into previous, current and corrective. The purpose of previous, preventive measures is to meet safety requirements with the aim of preventing a harmful effect on health. Current, protective measures have to be implemented during working process continuously with the aim of maintaining the achieved level of OSH. In case of any harmful events or harmful events that could not be anticipated, corrective measures should be undertaken immediately to sanction the consequences of accidents at work.

Ad Principle 4 – Hazard elimination is paramount in preventing occupational exposures:

The hierarchy of hazard controls with the aim to prevent to the extent possible exposure of workers to toxic and hazardous substances is incorporated in the OSH Act, i.e. the obligation of checking the concentrations of hazardous chemicals at work is prescribed strictly. Besides applying general principles of prevention (to prevent risks at their sources, then to replace the hazardous by the non or less hazardous), the employer is obligated to ensure that the concentration of hazardous chemicals, which act in the form of gases, vapours, dust and aerosols, at workplaces and their environment is as low as possible and below the exposure limit value. If the measured concentration of hazardous chemicals is determined to exceed the limit values, the employer shall be obliged to promptly:

a) identify the reasons for exceeding the limit values

b) apply additional OSH rules based on the identified reasons

c) repeat the measurements after the application of the basic rules.

Other obligations of the employer when working with hazardous chemicals is to ensure that:

d) hazardous chemicals are packed and labeled in such a way that when used there is no risk or harm to the health and safety of the employees

e) workers are given information about the hazards or harms related to the use of hazardous chemicals, as well as about occupational health and safety rules i.e. measures

f) the application of OSH rules will be in accordance with the properties of hazardous chemicals when storing them

g) the packaging remaining after the use of hazardous chemicals is handled in accordance with OSH rules and that it is disposed of in accordance with special regulations.

The Labour Inspection, as a part of the State Inspectorate, performs inspection work in the field of work as well as in the field of occupational safety. In conducting the inspection of OSH matters, an inspector shall, by means of an oral decision, order the employer, until such time as the identified deficiency has been remedied, not to perform the following activities:

1. use means of work and personal protective equipment which are defective
2. carry out working procedures contrary to the OSH Act and other regulations, without the use of prescribed personal protective equipment, and otherwise behave and act in a manner that is not in compliance with the provisions of the OSH Act and other regulations
3. use chemical and other hazards, unless the employee has been provided with information about the risks involved or for which no documentation, stipulated by the OSH Act and other regulations, has been provided in the workplace.

The employer shall be obliged to inform the workers of all the risks and changes which might affect the health and safety of employees, in particular of risks associated with the workplace and the nature or type of work, of possible damage to health and of protective and preventive measures and activities in every work process as well as first aid measures, protection against fire, employees’ protection and rescue as well as of the employees who implement them. The employer is by means of written instructions obliged to ensure the implementation of work process in accordance with the OSH rules and is required to give the employees instructions. In the workplaces the employer is obliged to visibly display written instructions, among others, about the work environment, means of work and hazardous chemicals in accordance with the risk assessment.

The employer is also obliged to give an employee timely instructions on procedures in the event of an immediate risk to human life and health to which the employee is or could be exposed, as well as on possible measures to be taken in this case in order to prevent or reduce risks.

An employee has the obligation to undergo training for safe working practices when he is sent to such training by the employer. It shall be the responsibility of a worker to perform his duties with due care while at the same time taking care of his own health and safety, as well as the health and safety of other employees, which may be endangered by his actions or oversights at work. The employee has to cooperate with the employer in order to resolve all matters concerning OSH, in particular for as long as necessary to ensure that the working environment and working conditions pose no risk to safety and health and until OSH measures entirely comply with the requirements set out by the bodies competent for supervision of occupational health and safety. If faced with an immediate risk to his life and health, the worker shall have the right to refuse work and leave the workplace.

Ad Principle 5 – Duties and responsibilities to prevent the exposure of workers to toxic substances extend beyond borders:

When legal entities or persons domiciled in the Republic of Croatia, or persons nationals of the Republic of Croatia, have concluded a contract or other proof of performance of work with a foreign employer who sends a foreigner worker to the Republic of Croatia, the foreign employer is responsible for organizing and conducting work protection for the foreign worker. Foreign workers must, under the conditions prescribed by special regulations, meet both the requirements laid down by the provisions of the Croatia OSH Act and the regulations adopted in pursuance thereof.

The Croatian employers are obligated to train the employee for work in a safe manner, as follows:

1) before the commencement of work

2) when introducing changes in the work process

3) when introducing new work equipment or its changes

4) when introducing new technology

5) in the course of the induction of an employee into a new job, i.e. to a new workplace

6) when establishing health damage caused by hazards, harms or exertion at work.

So, in case the Croatian employer sends an employee to work abroad, which can include countries with lower level of OSH protection, the worker is trained for work in a safe manner.

Ad Principle 6 – States must prevent third parties from distorting scientific evidence or manipulating processes to perpetuate exposure:

In case of a criminal offense regarding the deliberate distortion of scientific evidence or manipulation of processes by business enterprises and other third parties to the detriment of workers’ health and safety, the prohibition of performing certain activities or activities may be imposed in relation to one or more activities or activities for which the criminal offense has been committed.

Ad Principle 7 – Protecting workers from exposure to toxic substances protects their families, their communities and the environment:

Through its legislation, which is in line with European and international law, Croatia has shown that recognise the mutually reinforcing nature of protecting workers from occupational exposures to toxic substances and the protection of environment. In the Croatian law are embedded both the occupational and environmental protection.

The cooperation between authorities, representatives of employers and representatives of trade unions (workers) is established through the national Economic Social Council. Topics from labour law, occupational safety and health, public health and a protection of environment are the main themes of joint work.

1. **Principles regarding information, participation and assembly**

The protection of human rights and fundamental freedoms, the personal and political freedoms and rights and the economic, social and cultural rights are embedded in the Constitution of the Republic of Croatia. That strongly guarantees the existence of the rights to information, participation and freedom of expression and association as well as the right to unionize and collective bargaining, which is being realized in accordance with laws. That matters include the prevention of violations and abuses of human rights arising from toxic exposures of workers.

The OSH Act regulates the occupational health and safety system in the Republic of Croatia, in particular national policy and activities, general principles of prevention and occupational health and safety regulations, employer’s obligations, rights and obligations of employees and of employees’ commissioner for occupational health and safety, activities in relation to occupational health and safety, supervision and misdemeanour liability. The rights of workers to be informed is included, which enables the realization of the workers’ right to achieve an effective remedy for the adverse impacts of toxic exposure.

Moreover, this matter is regulated in details by the Ordinance on Protection of Workers from Exposure to Hazardous Chemicals at Work, Occupational Exposure Limit Values and Biological Exposure Limit Values, which is applied to all jobs where workers are exposed or could be exposed to hazardous chemicals.

Collective agreement for health and healthcare activities (Official Gazette No. 29/18) regulates the rights and obligations of the employees that are working in the health care in Croatia and could be exposed to toxic substances. The main objective of the Trade Union of Health of Croatia is to promote and protect labour and social rights of workers employed in public health.

Ad Principle 8 – Every worker has the right to know, including to know their rights:

Information about occupational health and safety for workers that are professionally exposed and work with dangerous chemicals are covered by the Chemicals Act and the Ordinance on Conditions for performing the Activities of Production, placing on the Market and use of Dangerous Chemicals. By that legislative it is established the conditions and the manner of acquisition and assessment of the protection from hazardous chemicals to workers prior to the beginning of work with hazardous chemicals.

By the international regulations as well as the Croatian regulations (the Ordinance on Conditions and Method of Completion and Verification of Knowledge for Protection from Hazardous Chemicals) the specific instructions for each of the chemicals in companies are prescribed, because the chemicals are different by the level of danger.

The occupational medicine in Croatia deals with conditions and diseases arising from environmental factors (e.g. chemicals) that workers are professionally exposed through daily operations. By the OSH Act it is defined that the employer shall provide employees with occupational medical services so as to ensure health surveillance appropriate to risks, hazards and exertions during work with a view to protecting the health of employees.

The responsibility of business enterprises, e.g. employers, for identifying and assessing the actual and potential exposure by workers to hazardous substances in the supply chains and activities, including information on the types of hazardous substances in occupational settings, the intrinsic hazards of such substances and exposure-related data, is regulated by the Ordinance on Conditions for performing the Activities of Production, placing on the Market and use of Dangerous Chemicals and the Ordinance on the Conditions Regarding Special Occupational Safety Measures in Legal Persons working with Poisons that are being used for Scientific Research. This matter is also regulated by the Ordinance on making Risk Assessment, which prescribes the conditions, mode and methods of risk assessment, the mandatory contents covered by the assessment and the data about hazards, harms and efforts at work on which the risk assessment is based.

The OSH Act defines that the employer shall be obliged to organize and implement occupational health and safety, taking into account risk prevention as well as informing, training, organization and resources.

By the Labour Act is defined that employer shall provide and maintain facilities, devices, equipment, tools, place of work and access to the workplace, and organize work in a manner that ensures the protection of life and health of workers, in accordance with the specific laws and regulations and the nature of the performed work. Regarding the eventual case of the abuse or violation, procedures and measures for the employees’ protection from harassment and sexual harassment are determined and this matter is regulated by a special law, collective agreements, agreements between the works council and the employer or employment rules.

Ad Principle 9 – Health and safety information about toxic substances must never be confidential:

Information about toxic substance could be confidential business information or trade secret in accordance to the Privacy Act and the Act on protecting the Confidentiality of Data.

In accordance with the OSH Act and other OSH regulations, the employer shall keep records and documents and provide information and notifications. In addition, the employer shall keep records of injuries at work, occupational diseases and occupational accidents. The employer is obligated to provide notifications and information in such a manner so as to protect the employees’ privacy in accordance with special provisions on personal data protection.

The obligation to have accurate information about OSH is set up by the Ordinance on Occupational Safety and Health in the Workplace. It is defined that workers or their representatives must be informed of all safety and health measures at the workplace which the employer undertakes. That includes information about health problem arising in the workplace if there are any, as well as the undertaken measures.

The Health Care Act and The Ordinance on the Rights, Conditions and the Exercise of Rights of Compulsory Health Insurance in the Event of Occupational Injury and Occupational Diseases describe procedures and rights of workers in case of health problems that arise from the workplace.

Ad Principle 10 – The right to safe and healthy work is inseparable from freedom of association, the right to organize and the right to collective bargaining:

By the Constitution of the Republic of Croatia is defined that everyone has the right to free association to protect its interests or promotion of social, economic, political, national, cultural and other beliefs and objectives. Everyone can freely establish unions and other associations or join them in accordance with the law.

Most of the unions in Croatia have been assembled into four major associations:

Union of Autonomous Trade Unions of Croatia

Independent Croatian Trade Unions

Association of Croatian Trade Unions

Croatian Workers' Union Association.

Trade Unions of Croatia are systematically working on improving the quality of jobs, living and working standards of its members and of all citizens of Croatia. They are constituted and organized in a democratic manner, and are independent of employers, authorities, political parties and religious communities.

The social dialogue and social partnership exist from very beginning of the Republic of Croatia and include OSH topics. The tripartite social dialogue is institutionalized through the Economic Social Council at national level as well as through such councils at county level. At national level Trade Unions are relevant social partner to the Government of the Republic of Croatia and the Croatian Employers’ Association.

Ad Principle 11 – Workers, representatives of workers, whistle-blowers and right defenders must all be protected from reprisal and the threat of reprisal:

Through the improvement of legal regulations the Republic of Croatia permanently tries to empower right holders, especially those most at risk, to defend their rights. It helps that the principle of accountability and the rights to information and an effective remedy to be upheld constantly.

By the Labour Act it is established that trade union commissioners or trade union representatives have the right to protect and promote the rights and interests of trade union members. During the performance of this duty, and six months after the termination of such duty, it is not possible to cancel the employment contract of trade union commissioners or otherwise put them in a disadvantageous position in relation to their current working conditions and in relation to other workers.

Croatia has regulated national protection for defenders of labour rights – it has been established the institute of the ombudsman, an officer authorized by the Croatian Parliament for the promotion and protection of the human rights and freedoms in accordance with the Constitution, laws and international laws on human rights and freedoms. Also, the procedure of adopting the Whistle-blowers Protection Act is in progress and by its adoption this important area will be arranged in accordance with recommendations of the European Union.

1. **Principles regarding effective remedies**

Regarding justice and effective remedies that can motivate business enterprises to develop and adopt safer practices, the supervision is prescribed by the OSH Act. The administrative supervision of the implementation of this Act, subordinate regulations adopted pursuant to this Act and other regulations on health and safety matters are conducted by the central government body competent for labour matters. The central government body, competent for labour inspection matters, inspects the implementation of the regulations’ provisions.

In conducting the inspection of OSH matters, an inspector shall, by means of an oral decision, order the employer, until such time as the identified deficiency has been remedied, not to perform working activities and procedures contrary to the OSH Act and other regulations, as well as not behave and not act in a manner that is not in compliance with the regulations’ provisions. This includes, inter alia, substitution with less hazardous alternatives and adopting engineering controls aimed to reduce exposure. The check of the working environment parameters is also one of the OSH inspectors’ measures in conducting supervision that could be connected with a potential toxic exposure.

In case of provisions on health protection and occupational medicine, the administrative supervision over its implementation is carried out by the central government body competent for health matters. And other central government bodies inspect the implementation of special regulations on health and safety at work with regard to specific activities, tasks and risks and in accordance with special regulations, and the provisions of the OSH Act and regulations adopted pursuant thereto are applied to all matters which are not regulated by special regulations.

Ad Principle 12 – Governments should criminalize allowing workers to be exposed to substances that are known or should be known to be hazardous:

Criminal offenses and criminal sanctions are prescribed by the Criminal Law and the Environmental Protection Act. In addition misdemeanour provisions are implemented in the Chemical Act and the OSH Act.

Ad Principle 13 – Workers, their families and their communities must have immediate access to an appropriate and effective remedy, which should be available from the time of exposure:

The procedure for recognizing the professional etiology of the disease is determined by the Ordinance on the Rights, Conditions and the Exercise of Rights of Compulsory Health Insurance in the Event of Occupational Injury and Occupational Diseases. Occupational injuries and occupational diseases are listed in the Act on the List of occupational diseases. This procedure is conducted in accordance with the criteria of modern medicine.

By the Croatian regulations it is guaranteed that in such unwanted and adverse cases the remedy is appropriate and effective. The remedy includes prompt reparation for harms suffered, health care, compensation, guarantees of non-repetition and adequate training for rehabilitation, reinsertion and reasonable accommodation. Bringing to justice enterprises or persons responsible for exposure to toxic is included.

In practice it is a common case for employers to conclude insurance contracts for their employees against accidents. Also, the liability insurance for damages caused to workers is often a part of collective insurance. In that case the employer is the policyholder, and employees are insured.

The responsibility for the damage caused by dangerous activities is defined by the Mandatory relationship act. The general principle is that the one who causes the damage to another is obliged to compensate for this damage, unless it is proved that the damage was caused without his guilt. Damage resulting from a hazardous activity is considered to arise from this activity, unless it is proved that it is not so. For the damage caused by dangerous activity, it is considered that the responsibility is up to the person responsible for dealing with that activity.

Ad Principle 14 – Workers or their families should not bear the burden of proving the cause of their illness or disability to access an effective remedy:

By the OSH Act it is guaranteed that the responsibility for OSH is up to employers. It is highlighted that the employer is responsible for the organization and implementation of occupational health and safety of employees in all segments of the organization of work and in all work processes. In addition, if the organization of the implementation of OSH and the rights, obligations and responsibilities of the authorized officers and employees are not regulated under the OSH Act and regulations adopted in pursuance thereof, a collective agreement, agreement between the works council and the employer or employment contract, the employer shall by virtue of an ordinance or other Act do so, in accordance with general regulations on work.

It is also stressed that the injuries at work and occupational disease suffered by an employee performing duties in the undertaking shall be considered to have originated from work and the employer shall be liable for it according to the principle of objective liability.

So in case of any adverse event for workers’ health, which includes the exposure to toxic substances at work, the burden of proving no harmful event is transferred to the employer.

Ad Principle 15 – States should assert jurisdiction for cross-border cases of workers harmed by occupational exposure:

The stronger judicial cooperation of different EU Member States as well as other countries can prevent different interpretations of certain criminal laws. It could be done on the basis of the agreed criminal law provisions to be applied. A common legal framework in occupational safety field would be helpful. It is also necessary to establish unified procedures that will simplify and speed up solutions of cross-border cases of workers harmed by occupational exposure.

**Conclusion:**

The Ministry of Labour and Pension System strongly supports the principles set out by the Special Rapporteur on the implications for human right of the environmentally sound management and disposal of hazardous substances and wastes, points out that those principles are embedded in the Croatian legislative and they are permanently being implemented in everyday work-processes.