

Investigating industrial accidents in Ukraine

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1. General information

Accidents that occurred to employees of enterprises (institutions, organisations), their branches, representative offices and other separate and structural subdivisions are subject to special investigation regardless of the severity of the injury (damage to health).

Accidents in Ukraine are also subject to investigation if they occurred:

- with persons working under a civil law contract or on other grounds specified by law;
- with individual entrepreneurs;
- with persons engaged in independent professional activities;
- with members of a farm;
- with persons who are de facto admitted to work without an employment contract;
- during the performance of labour duties as a result of military (combat) actions (bombing, missile and artillery shelling, mining of territories and premises, taking captive, other illegal actions, mass terrorist acts accompanied by loss of life or destruction of critical vital infrastructure, etc.).

Such accidents are investigated by a commission (special commission) at the place of their occurrence.

Investigations into accidents that have caused serious consequences, including possible disability of the injured person, are conducted by the company's commission without a written order from the local body of the State Labour Service (SLS).

If the employer is unable to form a commission and ensure that the accident is investigated, the obligation to conduct such an investigation is imposed on the relevant local body of the State Labour Service at the place of the accident or the location of the company whose employee is the victim.

In the event of a group accident resulting in the death of 2 to 4 people, the investigation is conducted by a special commission formed by the relevant local body of the SLS, unless the SLS decides otherwise within one day of receiving the notification.

A special investigation of a group accident that killed 5 or more people or injured 10 or more people is conducted by a special commission established by the SLS.

After receiving information about an accident, the employer shall report it to:

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- the local body of the State Labour Service,
- the local office of the Pension Fund of Ukraine,
- the military administration (military-civilian administration, local state administration or local self-government body) and
- the primary trade union organisation.

2. Special commission for accident investigation

Within 1 working day from the date of receipt of an accident report from the employer or information from other sources (healthcare institution, pre-trial investigation body, request of the victim or his/her family members or their authorised person, etc.), the local body of the SLS shall form a special investigation commission. The commission shall be composed of:

- an official of the local body of the SLS (chairman of the commission);
- a representative of the local office of the Pension Fund of Ukraine, a representative of the military administration (military-civilian administration, local state administration or local self-government body).

3. Duties of the special commission

The special commission for accident investigation shall be obliged to:

- hold a meeting in any suitable premises or via a conference call (remotely) to review information about the accident, allocate functions among the commission members and draw up minutes of the commission's meeting;
- examine the place where the accident occurred (if possible) and draw up a relevant report.

If the special investigation commission does not have access to the territory of the enterprise (institution, organisation) due to hostilities or its temporary occupation, or if there is a threat of a manmade or environmental disaster, such minutes are drawn up on the basis of an act drawn up by the Ukrainian employer in any form.

The act records the workplace conditions, the state of machinery, mechanisms, equipment, and the facilities at the time of the accident. For this purpose, the available technical documentation, accounting data, copies of documents confirming property ownership (if their originals have been destroyed), photo and/or video materials at the employer's disposal, witness explanations, etc. are used.

The special commission is obliged, inter alia, to:

- obtain, if possible, explanations from the employer, its representatives, officials, other enterprise employees, and the victim; interview witnesses to the accident and persons involved in it (record everything in writing). The explanations and results of the survey must be signed by the member of the special commission who conducted them;
- review available documents and materials related to the accident and, if necessary, request necessary information and documents related to the victim and the circumstances of the accident from the employer;
- involve military experts or representatives of other highly specialised organisations to prepare opinions on the causes and circumstances of the

accident (if necessary);

- determine the type of event that led to the accident, the causes of the accident;
- determine the circumstances of the accident;
- determine whether the accident is related to the production process;
- provide within 5 working days after signing the acts the investigation materials and copies of such acts to the head of the SLS or its local body that formed the special commission for their review and approval.

The decision of the special commission on the results of the investigation may be appealed to the SLS or in court by the employer, the victim (family members of the victim or their authorised representative), institutions and organisations whose representatives were members of the commission.

The employer must send the investigation materials within 3 working days after the investigation is completed to:

- the SLS and its local body at the place of the accident;
- the local office of the Pension Fund of Ukraine at the place of registration of the company;
- the National Police of Ukraine (in the event of an accident resulting in severe (including possible disability of the victim) or fatal consequences, death of an employee in the performance of his/her work (professional) duties);
- a higher-level trade union body or a territorial association of trade unions;
- other enterprises whose representatives participated in the investigation (if necessary).

The victim, his/her family members or an authorised person shall be provided with the report together with supporting documents.

If it is not possible to form a commission and conduct a special investigation due to a life and health threat to the commission members related to military (combat) actions or the occurrence of manmade or natural emergencies, the employer and the relevant local body of the SLS collect, record and systematise information about the occupational accident to the maximum extent possible. This is done for the purpose of further investigation of the accident in accordance with the requirements of Ukrainian legislation after the termination of military (combat) actions or measures of the legal regime of the state of emergency.