



E-Handbook on Cross-border Enforcement

OSH for Mobile Workers

BELGIUM

Kingdom of Belgium

Committee of Senior Labour Inspectors (SLIC)

Last version adopted at the 83rd SLIC Plenary in Stockholm, 10 May 2023

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FOREWORD

The first version of the E-Handbook on Cross-border Enforcement was published in 2016 and updated in 2019. The last version was published in 2021 in the [Library of the SLIC public site](#) on the EU collaborative platform CIRCABC.

This last version had a format that enhances a better public disclosure of the organisation of the bodies and entities dealing with the inspection of occupational safety and health in EU Member States, as well as in Norway and Switzerland. The purpose of that E-Handbook was to provide labour inspectorates with informative tools to facilitate cooperation and mutual assistance with competent bodies from other countries.

The new working group on Mobile Workers on OSH matters, which replaced the previous working group dedicated to cross-border enforcement, was mandated to update the content of the E-Handbook for several reasons.

First, it was necessary to add new regulations such as the new Directive (EU) 2020/1057 laying down specific rules for posting of drivers in the road transport, a sector which moreover includes aspects related to the enforcement of working time under Directive 2006/22/EC, a matter that is considered a part of OSH legislation in many Member States.

Secondly, it was necessary to enlarge the content of that handbook following the new scope of the working group dedicated to mobile workers. A mobile worker is someone who works in more than one Member State or travels to other Member States as part of his job (posted workers, cross-border workers, seasonal workers, temporary workers, migrant workers...).

Therefore, the handbook should include information on the competence of SLIC Members on legislation about Third Country National workers. This includes Directive 2014/36 on seasonal workers in aspects related to the health and safety conditions such as workers' accommodation and Directive 2009/52 on sanctions. These directives have been explicitly mentioned in the current EU strategic framework on health and safety at work 2021-2027 in a changing world of work.

Moreover, it was necessary to complement some aspects related to the practice of concerted and joint inspections on OSH matters regarding the legal possibility to carry them out in each Member State.

Lastly, the SLIC working group considered that the easiest way to update the existing E-Handbook was to maintain its structure, with the updated information provided by Member States, and to complete it with new items gathered in a specific annex.

Finally, the handbook needed a new title reflecting its purpose and also support to gain more visibility among labour inspectors on the field.

We hope that this document will be a useful tool for national labour inspectorates and beyond, for all organisations involved in OSH matters for mobile workers.

This new updated version was announced to SLIC members at the 82nd Plenary session of 12 October 2022, held under the Czech Presidency.

DIRECTORY

Austria	<p>ARBEITSINSPEKTION</p> <p>Favoritenstraße 7 A-1040 Wien</p> <p>https://www.arbeitsinspektion.gv.at/inspektorat</p>
Belgium	<p>SURVEILLANCE ON WELL-BEING AT WORK and SURVEILLANCE ON SOCIAL LAW</p> <p>Blerotstraat/rue Blerot 1 B-1070 Brussels</p> <p>http://www.employment.belgium.be In Dutch: www.werk.belgie.be In French: www.emploi.belgique.be</p>
Bulgaria	<p>GLI EA (General Labour Inspectorate Executive Agency)</p> <p>http://www.gli.government.bg/en</p>
Croatia	<p>STATE INSPECTORATE</p> <p>Šubićeva 29, 10 000 Zagreb</p> <p>https://dirh.gov.hr/</p>
Cyprus	<p>DEPARTMENT OF LABOUR INSPECTION (DLI) http://www.mlsi.gov.cy/mlsi/dli/dliup.nsf/index_en/index_en?OpenDocument</p> <p>DEPARTMENT OF LABOUR (DL) https://www.mlsi.gov.cy/mlsi/dl/dl.nsf/index_en/index_en?OpenDocument</p> <p>DEPARTMENT OF LABOUR RELATIONS (DLR) https://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/home_en/home_en?openform</p>
Czech Republic	<p>STATE LABOUR INSPECTION OFFICE OF THE CZECH REPUBLIC</p> <p>Kolářská 13 746 01 Opava</p> <p>Email: opava@suip.cz https://www.suip.cz/web/en</p>
Denmark	<p>ARBEJDSTILSYNET</p> <p>Landskronagade 33 2100 København Ø</p> <p>Email: at@at.dk http://engelsk.arbejdstilsynet.dk/en/</p>
Estonia	<p>TÖÖINSPEKTSIOON</p> <p>Mäealuse 2/3, 12618 Tallinn</p>

	<p>Estonia</p> <p>Email: ti@ti.ee www.ti.ee</p>
Finland	<p>TYÖSUOJELUHALLINTO</p> <p>Email: tyosuojelu.viestinta@avi.fi https://www.tyosuojelu.fi/web/en</p>
France	<p>DIRECTION GÉNÉRALE DU TRAVAIL</p> <p>39-43 quai André Citroën 75902 Paris Cedex 15</p> <p>Email: dgt.dir@travail.gouv.fr https://travail-emploi.gouv.fr/ministere/organisation/article/dgt-direction-generale-du-travail</p>
Germany	<p>LASI Länderausschuss für Arbeitsschutz und Sicherheitstechnik (Gremium der Länder) LASI Vorsitz (bis 2024): Ministerium für Wirtschaft, Arbeit und Tourismus Baden-Württemberg; Theodor-Heuss-Straße 4, 70174 Stuttgart</p> <p>https://lasi-info.com</p>
Greece	<p>LABOUR INSPECTORATE</p> <p>8, Dragatsaniou str, 10110 Athens,</p> <p>Email: dpseaye@hli.gov.gr https://www.hli.gov.gr/</p>
Hungary	<p>MINISTRY OF ECONOMIC DEVELOPMENT, STATE SECRETARY OF EMPLOYMENT POLICY</p> <p>Kálmán Imre utca 2. Budapest, 1054-Hungary</p> <p>Email: munkavedelmi-foo@gfm.gov.hu http://www.mvff.munka.hu</p>
Ireland	<p>HEALTH AND SAFETY AUTHORITY</p> <p>The Metropolitan Building James Joyce Street Dublin 1</p> <p>Email: contactus@hsa.ie https://www.hsa.ie/eng</p>
Italy	<p>ISPETTORATO NAZIONALE DEL LAVORO</p> <p>Piazza della Repubblica, 59 00185 Roma</p> <p>https://www.ispettorato.gov.it</p>

Latvia	<p>VALSTS DARBA INSPEKCIJA (VDI)</p> <p>38 k-1, Kr.Valdemara Street Riga LV –1010</p> <p>Email: vdi@vdi.gov.lv https://www.vdi.gov.lv</p>
Lithuania	<p>STATE LABOUR INSPECTORATE OF THE REPUBLIC OF LITHUANIA (SLI)</p> <p>19 Algirdo str. LT-03607 Vilnius Lithuania</p> <p>Email: info@vdi.lt https://www.vdi.lt</p>
Luxembourg	<p>INSPECTION DU TRAVAIL ET DES MINES</p> <p>3 Rue des Primeurs, 2361 Strassen, Luxembourg</p> <p>www.itm.public.lu</p>
Malta	<p>OCCUPATIONAL HEALTH AND SAFETY AUTHORITY</p> <p>17, Triq Edgar Ferro, Pietà PTA 1533 Malta</p> <p>Email: ohsa@ohsa.mt http://www.ohsa.mt/</p>
Norway	<p>ARBEIDSTILSYNET</p> <p>Arbeidstilsynet Postboks 4720 Torgarden 7468 Trondheim</p> <p>Email: post@arbeidstilsynet.no https://www.arbeidstilsynet.no/en/</p>
Poland	<p>PAŃSTWOWA INSPEKCJA PRACY (PIP)</p> <p>28/30, Barska St., 02-315 Warsaw</p> <p>Email: kancelaria@gip.pip.gov.pl https://www.pip.gov.pl/en</p>
Portugal	<p>AUTORIDADES PARA AS CONDIÇÕES DE TRABALHO</p> <p>Praça de Alvalade, 1 1749-073 Lisboa</p> <p>Email: dir.mail@act.gov.pt http://www.act.gov.pt</p>

<p>Romania</p>	<p>INSPECTIA MUNCII Str. Matei Voievod, Nr. 14 Sector 2, București Email: comunicare@inspectiamuncii.ro www.inspectiamuncii.ro</p>
<p>Slovakia</p>	<p>NÁRODNÝ INŠPEKTORÁT PRÁCE Masarykova 10 040 01, Košice Email: nip@ip.gov.sk https://www.ip.gov.sk/home/</p>
<p>Slovenia</p>	<p>LABOUR INSPECTORATE OF THE REPUBLIC OF SLOVENIA (LIRS) Štukljeva cesta 44 SI-1000 Ljubljana http://www.id.gov.si/en/</p>
<p>Spain</p>	<p>ORGANISMO ESTATAL INSPECCION DE TRABAJO Y SEGURIDAD SOCIAL (OEITSS) Paseo de la Castellana 63 28046 Madrid https://www.mites.gob.es/itss/web/index.html</p>
<p>Sweden</p>	<p>THE SWEDISH WORK ENVIRONMENT AUTHORITY Svetsarvägen 12 SE 171 41 Solna Email: arbetsmiljoverket@av.se https://www.av.se/en/</p>
<p>Switzerland</p>	<p>STATE SECRETARIAT FOR ECONOMIC AFFAIRS (SECO) WORKING CONDITIONS – FEDERAL LABOUR INSPECTION Holzikofenweg 36 CH-3003 Bern Email: abea@seco.admin.ch www.seco.admin.ch/seco/de/home/Arbeit/Arbeitsbedingungen/Arbeitnehmerschutz.html</p>
<p>The Netherlands</p>	<p>NETHERLANDS LABOUR AUTHORITY PO Box 90801 2509 LV Den Haag https://www.nllabourauthority.nl/</p>

NATIONAL REPORT: BELGIUM

<p>LABOUR INSPECTORATE</p>	<p><u>Federal Public Service Employment (FPS), Labour and Social Dialogue</u> OSH LABOUR INSPECTORATE : GENERAL DIRECTORATE "SURVEILLANCE ON WELL-BEING AT WORK"</p> <p><u>Federal Public Service Employment, Labour and Social Dialogue</u> SOCIAL LABOUR INSPECTORATE: GENERAL DIRECTORATE "SURVEILLANCE ON SOCIAL LAW"</p>
<p>OTHER COMPETENT AUTHORITIES</p>	<ul style="list-style-type: none"> • Federal Agency for occupational risks (FEDRIS) • Federal Agency for Nuclear Control • FPS Economy, SME's, self-employed and Energy • FPS Mobility and Transport • Federal Public Service (FPS) Health, Food Chain Safety and Environment

1. THE LABOUR INSPECTORATE

1.1. ORGANISATION OF THE LABOUR INSPECTORATE

The Labour Inspectorate is part of the Federal Public Service (FPS) Employment, Labour and Social Dialogue. Two Directorates general cover the different domains of Labour Protection laws:

- **GENERAL DIRECTORATE "SURVEILLANCE ON WELL-BEING AT WORK": OSH LABOUR INSPECTORATE**
- **GENERAL DIRECTORATE "SURVEILLANCE ON SOCIAL LAW": LABOUR LAW INSPECTORATE**

The General Directorate "Surveillance on Wellbeing at work" competent for OSH includes three sections:

- Section "Regional Districts": There are 8 Regional Districts ;
- Section "Chemicals risks" ("Seveso" enterprises);
- Section "Knowledge Management".

The Labour Inspectorate-OSH counts about 200 inspectors. The two branches of the Belgian Labour Inspectorate agreed upon a protocol of collaboration, which includes:

- Exchange of information;
- Coordination about posted workers (IMI);
- Mixed campaigns; etc.

1.2. NATIONAL LEGISLATION AND ILO CONVENTIONS RATIFIED ON LABOUR INSPECTION

Figure N° 1: International Conventions on Labour Inspection ratified

CONVENTION	RATIFIED	NOT RATIFIED
ILO Convention 81 on Labour Inspection in Industry and Commerce	X	
ILO Convention 129 on Labour Inspection in Agriculture	X	
Maritime Labour Convention 2006	X	
ILO Convention 187 on Promotional Framework for Occupational Safety and Health	X	

1.3. COMPETENCES OF LABOUR INSPECTORS

1.3.1. Occupational Safety and Health (OSH)

The General Directorate “Surveillance on Wellbeing at Work” is the competent body on occupational safety and health with the exceptions listed below.

Figure N° 2: Map of competence on Occupational Safety and Health

MATTERS	COMPETENCE OF THE LABOUR INSPECTORATE	OTHER PUBLIC BODIES WITH COMPETENCE
OSH, in general terms	Yes	
Occupational Safety, in general terms	Yes	
Occupational Health, in general terms	Yes	
Work-related accidents	Yes	Federal Agency for occupational risks (FEDRIS) (For the compensation aspects in the frame of the

		social security)
Trade of Machines and Equipments	Yes	FPS of Economy, SME, Middle Classes and Energy
OSH in Radiations	Yes (for the aspects related to occupational medicine)	Federal Agency for Nuclear Control
OSH in Explosives	Yes	FPS Economy, SME's, self-employed and Energy for matters related to safety at work
OSH in Mines	Yes	
OSH in Vessels	Yes	FPS Mobility and Transport
OSH in Retail sector	Yes	
OSH in Horeca	Yes	
Agriculture	Yes	
Construction industry	Yes	
Aviation	Yes (*)	FPS Mobility and Transport
Railway	Yes (*)	FPS Mobility and Transport
Road Transport	Yes (*)	FPS Mobility and Transport
REACH	Yes (**)	<ul style="list-style-type: none"> Federal Public Service (FPS) Health, Food Chain Safety and Environment Regional inspectorates competent for Environment
Self Employed	Yes, partially (***)	
Police	Yes	
Civil Servants	Yes	
Military personnel and premises	Yes, partially (****)	Ministry for Defence
Penitentiaries	Yes	
Customs	Yes	

(*) not competent for ADR, RID and ICAO

(**) together with other inspection bodies competent for public health and environment

(***) in connection with their duties regarding temporary or mobile constructions sites and undertakings sharing a work place

(****) we are only competent for civilian personnel on military premises

1.3.2. OSH or Labour Law Matters

Figure N° 3: Map of competences in matters which could be considered within OSH or Labour Law

MATTERS	Yes	No
Working hours	X(*)	
Bullying and harassment	X	
Third Party Violence	X	

(*) Only Labour Law Inspectors (General directorate Surveillance on Labour Law) are competent for working hours.

1.3.3. Labour Law

Figure N° 4: Map of competences on Labour Law matters

MATTERS	Yes	No	COMMENTS
Salaries		X	Competence of the Labour Law - division
Equal Treatment		X	Competence of the Labour Law - division
Labour rights		X	
Foreign workers		X	The OSH-division is the competent authority to enforce legislation on safety and health at work no matter if the employees are legal or illegal employed
Others			

1.3.4. Social Security

Figure N° 5 Map of competences on Social Security Matters

MATTERS	Yes	No	COMMENTS
Affiliation of workers (REGISTER)		X	Are competent: Inspectorate of the National Office for Social Security
Contributions to Social Security System		X	
Social Security benefits		X	
Private pension funds		X	
Others			

1.4. INSPECTORS' POWERS

Figure N° 6: Map of Inspectors' powers

POWERS	Yes	No	COMMENTS
Visit workplaces	X		
Request for documents	X		
Summon employers to the Inspection Office	X		
Recommendations / Assistance	X		
Injunction / Improvement notice	X		
Initiate an administrative punishment procedure		X	
Initiate a judicial punishment procedures		X	However, the Labour Inspectorates make "reports of infringement" to the prosecutors which are the base of the procedures. If the prosecutor decides not to prosecute, he can send its decision to an administrative service that can initiate an administrative punishment procedure.
Imposing fines		X	
Stoppage / Prohibition Notice	X		
Notify offences to the Public Prosecutor or the Judge	X		
Others			

1.5. MECHANISMS OF COOPERATION AND EXCHANGE OF INFORMATION WITH OTHER NATIONAL PUBLIC BODIES

Figure N° 7: Cooperation mechanisms with other national public bodies

BODIES	Yes	No	COMMENTS
Tax Authorities	X		Only Labour Inspectorate-Labour law
Social Security bodies	X		
Police	X		
Public Prosecutor	X		
Others, specify			<ul style="list-style-type: none"> • Federal Agency for occupational risks (FEDRIS) • Federal Agency for Nuclear Control • FPS Economy, SME's, self-employed and Energy • Inspectorate Labour Environment (army inspectorate) • FPS Health, Food Chain Safety and Environment • FPS Mobility

2. POSTING OF WORKERS

2.1. NATIONAL LEGISLATION

The legal disposition that transposes Directive 96/71/EC of the European Parliament and of the Council, of 16 December 1996 concerning the posting of workers in the framework of the provision of services is the Act of 5 March 2002, introducing a simplified system for the maintenance of social records by undertakings that post workers to Belgium (Belgian Official Gazette of 13 March 2002) and the Royal Decree 01 04 2007.

The Act of December 11th, 2016, laying down several provisions with respect to the posting of employees transposed the Directive 2014/67.

The law containing various provisions for the transposition of European Directive 2018/957 was published on 18 June 2020 in the Belgian Official Gazette. The law entered into force on 30 July 2020.

Figure N° 8: EU Directives on posting of workers implemented

DIRECTIVE	Yes	No	DATE
Directive 96/71	X		2002
Directive 2014/67	X		2016
Directive 2018/957	X		2020

2.2. ADMINISTRATIVE REQUIREMENTS AND CONTROL MEASURES

European posting companies are required to declare posting to the national authorities ("LIMOSA"), with some exceptions (depending on the nature of the posting and period of length) and in some cases are required to be registered to the national authorities.

A. Self-employed workers: Professional card

If you wish to be established as a self-employed person in Belgium, you will require a professional card to be able to carry out your company activity, irrespective of whether it concerns a natural person or an authorised representative of a company or organisation (irrespective of whether your mandate is salaried or not).

That professional card is the essential authorisation for every person:

- who does not have Belgian citizenship and also does not have citizenship of one of the Member States of the European Economic Area (the countries of the European Union, plus Iceland, Norway and Lichtenstein) or Switzerland
- who is not exempt from this formality for other reasons

B. Enterprise number: registering in the Crossroad bank for enterprises

In principle, the following persons get an enterprise number:

- Legal persons of Belgian law

- Legal persons of foreign or international law **that have a branch in Belgium** or that are required to Create an account by Belgian law
- Every natural person, legal person or association which, in Belgium:
 - Has a trading or crafts company; or
 - Is liable for social security as an employer; or
 - **Is liable for value added tax**
 - Exercises an intellectual, free or service profession in a self-employed capacity.

Data concerning documents declaring posting of workers or registering posting companies to the national authorities are registered in a database: Limosa and Crossroad bank of enterprises, respectively.

Documents declaring posting of workers or registering posting companies to the national authorities are available to Labour Inspectors who have access to those databases.

2.2.1. Deadline to submit the declaration

The posting communication has to be **prior** to the start of the work.

2.2.2. Content of the declaration of posting

Figure N° 9: Content of the posting declaration

COMPANY DATA		
	YES	NO
Identity of Service Provider	X	
Representative/contact person of the company in your country	X	
A person designated for acting as a representative into collective bargaining within the host Member State		X
Activity	X	
Authorization in the sending MS		X
If it is a Temporary Work Agency or not	X	
Identity Number		X

WORKERS DATA		
	YES	NO
Number of workers	X	
Name of workers	X	
Nationality	X	
Age	X	
Role (function – job classification)		X

POSTING DATA		
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	YES	NO
Envisaged beginning	X	
End date of the posting		X
Anticipated Duration	X	
Address(es) of the workplace	X	
Nature of the services justifying the posting	X	
Contractor	X	

LABOUR CONDITIONS		
	YES	NO
Working hours	X	
Salaries		X
Collective accommodation		X
Use of dangerous agents		X
Prevention services		X

The declaration form is available online only on the website www.socialsecurity.be. It is a step-by-step procedure of introducing the data. See the following list of data needed to do the Limosa declaration:

For posted employees and self-employed persons

GENERAL DATA

The following data must be entered for an employee or self-employed person:

- The employee or self-employed person's identification data
- The commencement and termination dates of the posting in Belgium
- The place of employment in Belgium where the services will be supplied the type of services to be provided in Belgium or the economic sector
- The identification data of the Belgian client or principal.

Note: The person who makes the declaration must also identify himself (this could be the employer, a representative, a third person)

SPECIFIC ADDITIONAL DATA FOR AN EMPLOYEE

- The identification details of the employer
- The identification and contact details of the liaison officer (surname, first names, date of birth, physical and electronic addresses, telephone number and the capacity in which this liaison officer acts). This is a person responsible for liaison with the Belgian authorities who may, if necessary, forward documents and receive notifications.
- In cases of temporary agency work, the accreditation number of the foreign temporary employment agency. The legal employer must be indicated. This is therefore the temporary employment agency that has concluded an employment contract for agency work with the temporary agency worker.

- In order to be able to post staff in Belgium, a foreign temporary employment agency must have accreditation from the Belgian region (Brussels, Flanders, Wallonia) in which the work is performed.
- The nature of the services (list with sectors, for example: construction, meat processing, cleaning, etc.).
- For activities in the **construction sector** (Joint Committee no. 124) it is requested whether the employer pays a premium which is comparable to the applicable **'fidelity stamps'** in Belgium. A similar scheme to the fidelity stamps means that, pursuant to the schemes in force in his country, the employer is obliged to pay a premium (end of year bonus, Christmas bonus or 13th month) on top of the normal wage. Generally, this is a premium which is allocated annually and for which the amount corresponds more or less with a monthly salary. It does not include allowances relating to the employee's annual leave and posting allowances.

SPECIFIC ADDITIONAL DATA FOR A SELF-EMPLOYED PERSON

The VAT number in the country of origin or the enterprise number.

Limosa exceptions: not applicable on trainees, volunteers and au pairs.

There are also other exemptions that can be found on https://www.international.socialsecurity.be/working_in_belgium/en/limosa.html

2.3. SOCIAL SECURITY PROCEDURES

A1 forms and information on the relevant social security legislation are delivered by the National Social Security Office for Employee and civil servant. For self-employed, A1 forms are delivered by the National Institute for the Social Security of the Self-employed.

There is an agreement amongst a number of MS social security Authorities, to send copies to each other of all A1 forms they delivered during a period of time (for example, monthly). In this case documents declaring posting of workers or registering posting companies and A1 forms are submitted to different Authorities.

The Labour Inspectorate has access to the Social Security A1 forms submitted via their common internet platform "DOLIS (formerly "GENESIS") to all the A1 forms and to all posting Limosa declarations.

Figure N° 10: Position of the Labour Inspectorate with regard to A1 forms

	Yes	No
Access to A1 forms delivered by national authorities	X	
The Labour Inspectorate is consulted about the approval of A1 forms by competent institutions		X
Access to A1 forms delivered by other Member States	X	

2.4. WORK RELATED ACCIDENTS / OCCUPATIONAL DISEASES OF POSTED WORKERS

The Labour Inspectorate does not receive immediately and effectively notifications of work-related accidents suffered by posted workers. **In the case of serious accidents, it's up to the employer (i.e. the posting employer) to submit to the Labour inspectorate an extended report made up by the competent prevention service.**

2.5. NATIONAL AUTHORITIES INVOLVED IN POSTING OF WORKERS

Figure N° 11: Authorities involved in posting of workers

	Yes	No
Labour authorities	X	
OSH authorities	X	
Customs authorities		X
Tax authorities	X	
Social Security Institutions	X	
Others		

3. COOPERATION AND MUTUAL ASSISTANCE

3.1. LEGISLATION ON MUTUAL ASSISTANCE

Figure N° 12: Legislation and International Conventions signed and ratified

	RATIFIED / IMPLEMENTED	APPLICABLE TO L.I.	COMMENTS
Legislation on Mutual Assistance implementing Dir. 96/71 and Dir. 2014/67	Yes	Yes	<ul style="list-style-type: none"> • Belgian social criminal code (Art.57) • Administrative instructions of both branches of the Labour Inspectorate, notified to the EU-Commission which include the use of IMI
European Convention in Criminal Matters	Yes	No	Belgium has ratified the Convention by means of the law 9 December 2004. From the side of the administrative authorities (Labour Inspectorate OSH, Labour Inspectorate-Social Law) the Belgian ratification of the Convention exclude administrative bodies and proceedings.
Convention 094 Council of Europe	Yes	No	Entering into force 1/11/1982
Others			

3.2. BILATERAL AND MULTILATERAL AGREEMENTS ON LABOUR INSPECTION

Figure N° 13: Bilateral Agreements signed

COUNTRIES	DATE
France	2003
Poland	2007
Luxembourg	2008
Portugal	2009

Romania	2013
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3.3. REQUEST AND RECEPTION OF INFORMATION FROM OTHER INSPECTORATES

Figure N° 14: Exchange of information from other Labour Inspectorates

MATTERS	YES	YES But subjected to previous Protection Data Authorities supervision or approval	NO	COMMENTS
Does current regulation in your country allow providing information directly to other Labour Inspectorates?	X			Belgian social criminal code (article 57 supra for the international cooperation).
Does current regulation in your country allow receiving information directly from other Labour Inspectorates?	X			Belgian social criminal code (article 57 supra for the international cooperation).

3.4. TOOLS FOR EXCHANGING INFORMATION

3.4.1. IMI (Internal Market Information System) for Posting of workers

Figure N° 15: Liaison office of the Labour Inspectorate in IMI

	Yes	No
Use of IMI by the Labour Inspectorate	X	
In affirmative case, specify the liaison offices	Central Authorities	
Other Authorities	- Social labour inspection: all inspectors have access SPOC.labourinspection@employment.belgium.be - OSH inspection: centralised access head office	

	<ul style="list-style-type: none"> - Liaison office : legal department (central) - Inspection of the National Social Security Office (only for social security matters)
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3.4.2. KSS (Knowledge Sharing System)

KSS is chaired by the Belgian Labour Inspectorate.

The unique KSS e-mail address for Belgium is:
kss.coordinator@employment.belgium.be

3.5. FINES AND EXECUTION OF FINES PROPOSED OR IMPOSED BY THE LABOUR INSPECTORATE

Figure N° 16: Nature of fines

	Yes	No	Comments
Penal or criminal fines	X		Priority choice of the public prosecutor
Administrative fines	X		In secondary phase in case of no prosecution (mixed system)
Others			

Figure N° 17: Execution time of fines

Execution of fines could be done after the first resolution of the courts or administrative bodies or after the definitive one

	Yes	No	Comments
After the first judgement of the courts			
After the final judgement of the courts	X		For criminal fines
After the first administrative decision			
After the binding administrative decision	X		For administrative fines
Others			

Figure N° 18: Nature of Courts where fines can be appealed

The enactment of the current rules on cross-border enforcement could depend on the nature of the courts where the appeals to the fines can be submitted.

	Yes	No	Comments

Penal/Criminal courts	X		For criminal fines
Labour/Civil courts	X		For administrative fines
Courts for administrative affairs		X	
Others			

Figure N° 19: Authorities with competence to collect fines

	Yes	No
Labour Inspection Authorities		X
Labour/ Government Authorities		X
Tax/Customs Authorities	X	
Courts		X
Others		

Figure N° 20: Legal framework to collect fines imposed by authorities from other Member States

	YES	IF YES, is it applicable to Labour Inspectorate proceedings?	NO Authorities supervision or approval	COMMENTS
Framework Decision 2005/214	X	No		It is only for criminal files
Directive 2014/67 on administrative fines	X	Yes		Act of December 11 th , 2016
International or Bilateral Conventions			X	
Other National Rules				

ANNEX E-HANDBOOK (UPDATING 2023)

SLIC MEMBER: Mr Paul TOUSSEYN / alternate: Ms Maria Cristina RIBAS Y RIBAS

MEMBER STATE: BELGIUM

1. **About the Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012**

1.1. Transposition to National Legislation

Transposition		National Law or Regulations	Date
Yes partially	No	Law containing various provisions on the posting of drivers in the road transport sector + Royal Decree of 2 October 2022 on various measures concerning the posting of drivers in the road transport sector	19/06/2022

1.2. Competences of the SLIC Member on road transport

LEGISLATION	COMPETENCE		COMMENTS
Regulations 1071/09, 1072/09 and 1073/09 on road transport activity		No	FPS Mobility and Transport
Regulation 561/06 on driving time		No	FPS Mobility and Transport
Directive 2006/22 on social legislation in road transport	Yes		But combined with FPS Mobility and Transport, ...

Article 1 of Directive 2020/1057 on posting of workers on road transport	Yes		Labour Inspectorate	Law
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2. About Article 20.2.c) of Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers regarding health and safety conditions of workers' accommodation

2.1. Transposition to National Legislation

Transposition	National Regulations Collective Agreements	Law, or	Date
Yes		Law	05/05/2019

2.2. Competences of the SLIC Member on health and safety conditions on workers' accommodation

COMPETENCE	COMMENTS
No	It is a competence of the three regions: the Flemish region, Walloon region and Brussel-Capital region

3. About Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals

3.1. Transposition in National Legislation

Transposition	National Regulations	Law or	Date
Yes		Law providing for sanctions and measures against employers of illegally staying third-country nationals.	11 February 2013

3.2. Competences of the SLIC Member on sanctions and measures provided in this Directive

COMPETENCE	COMMENTS
Yes	The Labour law inspectorate is competent to monitor the law of 11 February 2013.
No	The Labour law inspectorate is not competent to sanction. However, they are competent to inform the Public Prosecutor of the infringements observed

4. JOINT AND CONCERTED INSPECTIONS ON OSH MATTERS

4.1. Is it allowed to organise concerted and joint inspections on OSH matters with other inspectorates?

Yes, by legal rules	X
Yes, by bilateral agreements	
No	

5. NATIONAL INFORMATION AND INITIATIVES FOR MOBILE WORKERS

5.1. Please describe the initiatives you have implemented (e.g.: website, flyers, documents...)

Foreign workers - Federal Public Service Employment, Labour and Social Dialogue (belgium.be)

Posting - Federal Public Service Employment, Labour and Social Dialogue (belgium.be)

6. COOPERATION WITH ELA

6.1. Do you regularly collaborate with the national liaison officer?

Yes, but this is mostly done by the Labour Law Inspectorate.

Cooperation with ELA is mainly through the coordination of the Social Information and Investigation Service (SIIS) (joint or coordinated controls)

6.2. Could you provide any useful information regarding your participation in working groups, campaigns, training, etc. ?