



# **E-Handbook on Cross-border Enforcement**

## **OSH for Mobile Workers**

### ***LUXEMBOURG***

*Grand Duchy of Luxembourg*

*Committee of Senior Labour Inspectors (SLIC)*

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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 82<sup>nd</sup> Plenary session of 12 October 2022, held under the Czech Presidency.

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## NATIONAL REPORT: LUXEMBOURG

<b>LABOUR INSPECTORATE</b>	<b>ITM (INSPECTION DU TRAVAIL ET DES MINES)</b>
<b>OTHER COMPETENT AUTHORITIES</b>	<ul style="list-style-type: none"> <li>• Occupational Health Department (Division de la Santé au Travail et de l'Environnement)</li> <li>• Accident Insurance Association (AAA)</li> <li>• The Public Prosecutor's Office</li> <li>• Luxembourg Institute of Standardisation, Accreditation, Safety and Quality of Products and Services (ILNAS) for new machines</li> <li>• ITM for old machines</li> <li>• Division de la Radioprotection</li> <li>• ITM for solar radiations</li> <li>• Luxembourg Maritime Administration</li> <li>• Town or city mayor</li> <li>• Service national de la Sécurité dans la Fonction publique for OSH in the Civil Service</li> </ul>

### 1. THE LABOUR INSPECTORATE

#### 1.1. ORGANISATION OF THE LABOUR INSPECTORATE

The Inspectorate of Labour and Mines operates under the authority of the minister responsible for Labour, Employment and the Social and Solidarity Economy.

Its main tasks are to contribute to the long-lasting well-being of employees and contribute to the security of classified establishments.

#### 1.2. NATIONAL LEGISLATION AND ILO CONVENTIONS RATIFIED ON LABOUR INSPECTION

**Figure N° 1: International Conventions on Labour Inspection ratified**

CONVENTION	RATIFIED	NOT RATIFIED
<b>ILO Convention 81 on Labour Inspection in Industry and Commerce</b>	X	
<b>ILO Convention 129 on Labour Inspection in Agriculture</b>	X	

<b>ILO Convention 187 on Promotional Framework for Occupational Safety and Health</b>	X	
<b>ILO Convention 155 on occupational Safety and Health</b>	X	

### 1.3. COMPETENCES OF LABOUR INSPECTORS

#### 1.3.1. Occupational Safety and Health (OSH)

The Inspectorate of Labour and Mines 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
<b>OSH, in general terms</b>	Yes	Occupational Health Department (Division de la Santé au Travail et de l'Environnement)  Accident Insurance Association (AAA)
<b>Occupational Safety, in general terms</b>	Yes	Occupational Health Department (Division de la Santé au Travail et de l'Environnement)  Accident Insurance Association (AAA)
<b>Occupational Health, in general terms</b>	Yes	ITM  Occupational Health Department (Division de la Santé au Travail et de l'Environnement)
<b>Work-related accidents</b>	Yes	Accident Insurance Association (AAA)  Public Prosecutor's Office
<b>Trade of Machines and</b>	No	Luxembourg Institute of

<b>Equipments</b>		Standardisation, Accreditation, Safety and Quality of Products and Services (ILNAS) for new machines
<b>Radiations</b>	Yes, but only for solar radiations	Division de la Radioprotection
<b>Explosives</b>	Yes	Luxembourg Institute of Standardisation, Accreditation, Safety and Quality of Products and Services (ILNAS), Ministry of Justice for the transport of explosives
<b>Mines</b>	Yes	
<b>Vessels</b>	No	Luxembourg Maritime Administration
<b>Retail sector</b>	Yes	Town or city mayor. For the authorisation of the operating permit for classified establishment ('commodo/incommodo')
<b>Horecca</b>	Yes	Town or city mayor. For the authorisation of the operating permit for classified establishment ('commodo/incommodo')
<b>Construction industry</b>	Yes	Accident Insurance Association (AAA)
<b>Civil Servants</b>	No	Service national de la Sécurité dans la Fonction publique for OSH in the Civil Service

### 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
<b>Working hours</b>	X	
<b>Bullying and harassment</b>	X	
<b>Third Party Violence</b>		X

Third Party Violence is a competence of the Police

### 1.3.3. Labour Law

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

MATTERS	Yes	No	COMMENTS
Salaries	X		
Equal Treatment	X		Together with National Employment administration (ADEM), Ministry of Equal Opportunities (Ministère de l'Égalité des Chances)
Labour rights	X		
Foreign workers	X		Together with the Immigration Directorate in case of third country nationals, Police
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	Centre Commun de la Sécurité Sociale (CCSS) for further inquiry or prosecution
Contributions to Social Security System		X	Centre Commun de la Sécurité Sociale (CCSS)
Social Security benefits		X	Centre Commun de la Sécurité Sociale (CCSS)
Private pension funds		X	
Others			

## 1.4. INSPECTORS' POWERS

**Figure N° 6: Map of Inspectors' powers**

POWERS	Yes	No	COMMENTS
Visit workplaces	X		
Recommendations / Assistance	X		
Injunction /	X		

<b>Improvement notice</b>			
<b>Initiate an administrative punishment procedure</b>	X		
<b>Initiate a judicial punishment procedures</b>		X	
<b>Imposing fines</b>	X		Only administrative fines
<b>Stoppage / Prohibition Notice</b>	X		
<b>Notify offences to the Public Prosecutor or the Judge</b>	X		
<b>Others</b>			

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

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

<b>BODIES</b>	<b>Yes</b>	<b>No</b>	<b>COMMENTS</b>
<b>Tax Authorities</b>	X		
<b>Social Security bodies</b>	X		
<b>Police</b>	X		
<b>Public Prosecutor</b>	X		
<b>Others</b>	Customs, General Directorate for SMEs and Entrepreneurship, Land Registration and Estates Department (AED), Immigration Directorate, Occupational Health Department from the Ministry of Health, National Employment Administration (ADEM), Accident Insurance Association (AAA)		

## 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 Law of 20.12.2002 integrated into the Labour Code under articles L.141-1 till L.145-6 and in article L.010-1, modified by a law of 11.04.2010. Directive 2014/67 was transposed by the Law of 14.03.2017. Directive 2018/957 was transposed by the Law of 15.12.2020. Directive 2020/1057 was transposed by the Law of 23.12.2022.

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

DIRECTIVE	Yes	No	DATE
<b>Directive 96/71</b>	X		20.12.2002
<b>Directive 2014/67</b>	X		14.03.2017
<b>Directive 2018/957</b>	X		15.12.2020
<b>Directive 2020/1057</b>	X		23.12.2022

### 2.2. ADMINISTRATIVE REQUIREMENTS AND CONTROL MEASURES

Only the information directly communicated by the posting company to the Labour Inspection via the electronic declaration e-Posting site.

#### 2.2.1. Deadline to submit the declaration

Prior or at latest at the beginning of the posted work in Luxembourg.

#### 2.2.2. Content of the declaration of posting

**Figure N° 9: Content of the posting declaration**

COMPANY DATA		
	YES	NO
<b>Identity of Service Provider</b>	X	
<b>A person designated for acting as a representative into collective bargaining within the host Member State</b>		X
<b>Activity</b>	X	
<b>Authorization in the sending MS</b>		X
<b>Identity Tax Number</b>		X
WORKERS DATA		

	YES	NO
<b>Anticipated number of clearly identifiable posted workers</b>	X	
<b>Name of workers</b>	X	
<b>Nationality</b>	X	
<b>Age</b>	X	
<b>Role</b>	X	

POSTING DATA		
	YES	NO
<b>Envisaged beginning</b>	X	
<b>End date of the posting</b>	X	
<b>Anticipated Duration</b>	X	
<b>Address(es) of the workplace</b>	X	
<b>Contractor</b>	X	

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

### 2.3. SOCIAL SECURITY PROCEDURES

The Common Centre of Social Security (Centre commun de la sécurité sociale) delivers A1 forms and information on the relevant social security legislation.

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

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

## 2.4. WORK RELATED ACCIDENTS / OCCUPATIONAL DISEASES OF POSTED WORKERS

In Luxembourg the Labour Inspectorate receives immediately and effectively notifications of work related accidents suffered by posted workers based on article L.614-11 of the Labour Code.

## 2.5. NATIONAL AUTHORITIES INVOLVED IN POSTING OF WORKERS

**Figure N° 11: Authorities involved in posting of workers**

	Yes	No
<b>Labour authorities</b>	X	
<b>OSH authorities</b>	X <sup>i</sup>	
<b>Customs authorities</b>	X	
<b>Tax authorities</b>	X	
<b>Social Security Institutions</b>	X	
<b>Others</b>	Immigration Directorate - Department for Foreigners for posting of third country nationals	



### 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
<b>Legislation on Mutual Assistance implementing Dir. 96/71 and Dir. 2014/67</b>	<b>Yes</b>	<b>Yes</b>	Labour Code under articles L.141-1 till L.145-6 and in article L.010-1
<b>European Convention in Criminal Matters</b>	<b>Yes</b>	<b>No</b>	Ratified by Luxembourg in 1977
<b>Convention 094 Council of Europe</b>	<b>Yes</b>	<b>Yes</b>	Ratified by Luxembourg in 1982
<b>Others</b>			

#### 3.2. BILATERAL AND MULTILATERAL AGREEMENTS ON LABOUR INSPECTION

**Figure N° 13: Bilateral Agreements signed**

COUNTRIES	DATE
<b>Belgium</b>	08.07.2008
<b>France</b>	20.03.2018
<b>Poland</b>	29.06.2010
<b>Portugal</b>	19.10.2022

### 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
Does current regulation in your country allow providing information directly to other Labour Inspectorates?	X		
Does current regulation in your country allow receiving information directly from other Labour Inspectorates?	X		

### 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	ITM contact@itm.etat.lu	

#### 3.4.2. KSS (Knowledge Sharing System)

The Labour Inspectorate of Luxembourg usually participates in KSS System.  
 Contact: [kss.coordinator@itm.etat.lu](mailto:kss.coordinator@itm.etat.lu)

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

**Figure N° 16: Nature of fines**

	Yes	No
Penal or criminal fines	X	
Administrative fines	X	
Others		

**Figure N° 17: Execution time of fines**

	Yes	No
After the first judgement of the courts		X
After the final judgement of the courts	X	
After the first administrative decision		X
After the binding administrative decision	X	
Others		

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

	Yes	No
Penal/Criminal courts	X	
Labour/Civil courts		X
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
<b>Framework Decision 2005/214</b>	X	No		Implemented Entry into force of legislation: 23 February 2010
<b>Directive 2014/67 on administrative fines</b>	X	Yes		Law 14.03.2017
<b>International or Bilateral Conventions</b>			X	
<b>Other National Rules</b>				

## ANNEX E-HANDBOOK (UPDATING 2023)

**SLIC MEMBER:** Mr Marco BOLY / alternate: Ms Patrice FURLANI

**MEMBER STATE:** LUXEMBOURG

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	Law	23.12.2022

### 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	
Regulation 561/06 on driving time		No	
Directive 2006/22 on social legislation in road transport		No	
Article 1 of Directive 2020/1057 on posting of workers on road transport	Yes		

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 Law, or Collective Agreements	Date
Yes		Loi portant modification: 1) de la loi modifiée du 29 août 2008 sur la libre circulation des personnes et l'immigration; 2) de la loi modifiée du 28 mai 2009 concernant le Centre de rétention; 3) de la loi du 2 septembre 2011 réglementant l'accès aux professions d'artisan, de commerçant, d'industriel ainsi qu'à certaines professions libérales.	08.03.2017

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

COMPETENCE	COMMENTS
Yes	In the field of health and safety conditions on employees' accommodation, the jurisdiction of the Inspectorate of Labour and Mines is limited to employees who are away from their usual place of work. (National Legislation: Provisions of the law of December 15, 2020 amending: 1° the Labor Code in order to transpose Directive (EU) 2018/957 of the European Parliament and of the Council of June 28, 2018 amending Directive 96/71/EC regarding the detachment of workers carried out within the framework of a service provision; 2° (...), respectively articles L. 291-1. to L. 291-5. of the Labor Code).

## 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		Loi portant modification: 1) du Code du travail; 2) du Code pénal; 3) de la loi modifiée du 10	21.12.2012

		<p>août 1991 sur la profession d’avocat;</p> <p>4) de la loi modifiée du 27 juillet 1993 ayant pour objet 1. le développement et la diversification économiques, 2. l’amélioration de la structure générale et de l’équilibre régional de l’économie;</p> <p>5) de la loi modifiée du 30 juin 2004 portant création d’un cadre général des régimes d’aides en faveur du secteur des classes moyennes;</p> <p>6) de la loi du 15 juillet 2008 relative au développement économique régional;</p> <p>7) de la loi modifiée du 29 août 2008 sur la libre circulation des personnes et l’immigration;</p> <p>8) de la loi du 5 juin 2009 relative à la promotion de la recherche, du développement et de l’innovation;</p> <p>9) de la loi du 18 février 2010 relative à un régime d’aides à la protection de l’environnement et l’utilisation rationnelle des ressources naturelles</p>	
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### 3.2. Competences of the SLIC Member on sanctions and measures provided in this Directive

COMPETENCE	COMMENTS
Yes	

## 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	
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Yes, by bilateral agreements	X
No	

## 5. NATIONAL INFORMATION AND INITIATIVES FOR MOBILE WORKERS

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

Information on working conditions and health and safety at work as well as on the collective agreements applicable in different economic sectors are published on the website of the ITM (<https://itm.public.lu/fr.html>).

## 6. COOPERATION WITH ELA

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

Yes.

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

Representatives of the ITM participate in meetings, working groups and trainings that are organized by the ELA.

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<sup>i</sup> Also covered by the Labour Inspectorate