



E-Handbook on Cross-border Enforcement OSH for Mobile Workers

SWITZERLAND

Swiss Confederation

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 82nd Plenary session of 12 October 2022, held under the Czech Presidency.

DIRECTORY

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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>
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Germany	<p>LASI Länderausschuss für Arbeitsschutz und Sicherheitstechnik (Gremium der Länder) LASI Vorsitz (bis 2024): Ministerium für Wirtschaft, Arbeit und Tourismus Baden-Württemberg;</p> <p>Theodor-Heuss-Straße 4, 70174 Stuttgart</p> <p>https://lasi-info.com</p>
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NATIONAL REPORT: SWITZERLAND

LABOUR INSPECTORATE	CANTONAL LABOUR INSPECTIONS
OTHER COMPETENT AUTHORITIES	<ul style="list-style-type: none"> • SECO (Federal State Secretariat for Economic Affairs) • Suva (Swiss National Accident Insurance Fund) • SVTI (Swiss Association for Technical Inspections) • BAG (Federal Office of Public Health) • Fedpol (Federal Office of Police)

1. THE LABOUR INSPECTION

1.1. ORGANISATION OF THE LABOUR INSPECTION

In Switzerland, the Federal Labour Inspection and Cantonal Inspections carry out Labour Inspection with regard to occupational safety and health and working hours.

Although the Labour Act, the Accident Insurance Act, and their ordinances are national laws, the enforcement is assured by the Cantonal Labour Inspections. They depend on the cantonal governments, are usually based in the capital of the canton and are competent on the territory of the cantons. In minor cases, with inter-cantonal aspects the Cantonal Labour Inspections work directly together. Cases where several cantons are involved the Federal Labour Inspection will coordinate.

The Federal Labour Inspection depends on the Labour Directorate, which is part of the State Secretariat for Economic Affairs (SECO). It supervises and coordinates the implementation of the Employment Act as well as the Accident Insurance Act by the cantons.

To this end, the Federal Labour Inspection analyses the implementation data, takes decisions on implementation questions on health and safety at the work place for all cantons and determines which activities are to be the focus in the implementation by the cantons.

As part of the overall supervision, the Federal Labour Inspection ensures that laws are applied on a standardised basis throughout Switzerland. For this purpose on the one hand, it draws up guidelines for the cantons and on the other hand conducts regular audits of the cantonal Labour Inspections.

In addition, the Federal Labour Inspection offers education and further training services and provides support as well as advice to the cantonal labour inspectors on technical and fundamental matters.

It directly enforces the local implementation of the Labour Act and the Accident Insurance Act both in the federal governmental administration and in federal enterprises. It also maintains cooperation with international employee protection organisations as well as foreign partner authorities.

1.2. NATIONAL LEGISLATION AND ILO CONVENTIONS RATIFIED ON LABOUR INSPECTION

The relevant national legislation on health and safety at work are the Labour Act and the Accident Insurance Act with their ordinances, both national laws.

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)

Federal (SECO) and Cantonal Labour Inspections are competent on occupational safety and health with the specifications 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	Federal & Cantons	Suva (Swiss National Accident Insurance Fund)
Occupational Safety, in general terms	Federal & Cantons	Suva (Swiss National Accident Insurance Fund)
Occupational Health, in general terms	Federal & Cantons	

Work-related accidents	Federal & Cantons	Suva (Swiss National Accident Insurance Fund)
Trade of Machines and Equipment	Federal	Suva (Swiss National Accident Insurance Fund)
Radiations	No	BAG (Federal Office of Public Health) Suva (Swiss National Accident Insurance Fund)
Explosives	No	Fedpol (Federal Office of Police)
Mines	No	Suva (Swiss National Accident Insurance Fund)
Vessels	Federal	SVTI (Swiss Association for Technical Inspections)
Retail sector	Federal & Cantons	
Horeca	Federal & Cantons	
Agriculture	No	
Construction industry	No	Suva (Swiss National Accident Insurance Fund)
Aviation	Federal: No for flying personnel Yes for ground operation	FOCA for flying personnel
Railway	Safety: Suva Health: Federal for the railway's administration	Health: railway staff working on-board or directly involved in the rail service
Road Transport	Yes, except working hours	
REACH	No	
Self Employed	No	
Police	Federal	Cantonal Labour Inspections for cantonal and community police Federal Labour Inspection for the federal police
Civil Servants	Federal & Cantons	Same as Police
Military personnel and premises	Federal	
Penitentiaries	Federal & Cantons – except working hours	
Customs	Federal	

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	

1.3.3. Labour Law

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

MATTERS	Yes	No	COMMENTS
Salaries		X	
Equal Treatment		X	
Labour rights		X	
Foreign workers		X	
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	
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		
Checking documents and other proofs in the office of the	X		

employer			
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		
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	
Social Security bodies		X	
Police	X		
Public Prosecutor		X	
Others	Swiss National Accident Insurance Fund		

2. POSTING OF WORKERS

2.1. NATIONAL LEGISLATION

Switzerland is not a member of the European Union and therefore is not obliged to transpose the Posting of Workers Directive 96/71 and the Directive 2014/67 into national law. However, a relationship is regulated by the Agreement on the Free Movement of Persons between Switzerland and the EU: When adopting the Federal Law on the accompanying measures for posted workers (Posted Workers Act) and on the control of the minimum wages stipulated in standard employment contracts (SR 823.20) and the Ordinance on posted workers (EntsV, SR 823.201) the European Posting of Workers Directive 96/71 has to be taken in account.

2.2. ADMINISTRATIVE REQUIREMENTS AND CONTROL MEASURES

The Posted Workers Act (PWA) states the notification requirement, which has replaced the permit requirement for job postings of up to 90 days per company and person from an EU-27/EFTA country¹.

As the name suggests, the notification requirement merely requires that notification is submitted for eligible postings; no permit is required.

The online notification procedure is the standard notification procedure. Employers wishing to post workers to Switzerland as well as self-employed persons wishing to provide services in Switzerland should fill out the online notification form over the Internet. It is free of charge. This procedure enables simple processing of data.

Violations of the PWA may result in:

- Administrative sanctions (fines up to CHF 30,000, exclusion from the Swiss market for one to five years, inspection costs covered by offending employers)
- Criminal sanctions (fines up to CHF 1,000,000, seizure of assets such as unlawful earnings), and
- Sanctions set out in the generally applicable collective employment contract

Under the PWA, sanctioned companies are added to a public list that can be consulted to determine whether a service provider has committed a major infraction in the past. Finally, the PWA lays down the right of labour or employer organisations to bring action seeking an investigation of possible violations of the PWA.

The State Secretariat for Economic Affairs is responsible for supervising enforcement of the PWA.

2.2.1. Deadline to submit the declaration

For EU-27/EFTA nationals, notification is required for the first day on in the following sectors:

- Construction, civil engineering and finishing industries
- Gardening and landscaping

¹ Transitional conditions apply to companies or self-employed persons domiciled in Croatia that wish to provide services in Switzerland.

- Hotel restaurants and catering
- Industrial and domestic cleaning business
- Guard and security services sector
- Itinerant trade (exception: circus operators and market traders only have to submit a notification form from the ninth day of work)
- Sex industry

The reasons are that experience has shown that in these branches, there is a risk of wage dumping and circumvention of labour law (Art. 6 PWO and Art. 14 ASEO). In other branches, the notification requirement applies only when services are to be rendered for longer than eight days per company and per person within a given calendar year. This rule is valid regardless of whether the activity takes place over an uninterrupted period or whether it is broken down into individual days spread out over the year.

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 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 Tax Number		X

WORKERS DATA		
	YES	NO
Anticipated number of clearly identifiable posted workers	X	
Name of workers	X	
Nationality	X	
Age	X	
Role	X	

POSTING DATA		
	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

2.3. SOCIAL SECURITY PROCEDURES

A1 forms concerning posting situations and activities pursued in two or more EU countries are delivered by OASI compensation fund (AHV-Ausgleichskasse / Caisse de compensation AVS / Cassa di compensazione AVS) in its cantonal offices.

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

In Switzerland the Labour Inspection does not receive notifications of work related accidents suffered by posted workers in every case.

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	Posted Workers Act
European Convention in Criminal Matters	No		
Convention 094 Council of Europe	No		
Others			

3.2. BILATERAL AND MULTILATERAL AGREEMENTS ON LABOUR INSPECTION

Switzerland has no specific agreements on Labour Inspection with other countries.

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		

3.4.2. KSS (Knowledge Sharing System)

Switzerland is participating in KSS exchanges via kss.coordinator@seco.admin.ch.

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	Accident Insurance Institutions	

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	
Directive 2014/67 on administrative fines			X	
International or Bilateral Conventions			X	
Other National Rules				

ANNEX E-HANDBOOK (UPDATING 2023)

SLIC MEMBER: Mr Joseph A. WEISS
MEMBER STATE: SWITZERLAND

NOT APPLICABLE

- 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	No		

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

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 or Collective Agreements	Law, or	Date
Yes	No			

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

COMPETENCE	COMMENTS
Yes	
No	

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	No			

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

COMPETENCE	COMMENTS
Yes	
No	

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	
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...)

6. COOPERATION WITH ELA

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

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