



E-Handbook on Cross-border Enforcement

OSH for Mobile Workers

GERMANY

Federal Republic of Germany

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

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 Estonia</p> <p>Email: ti@ti.ee</p>

	<p>www.ti.ee</p>
Finland	<p>TYOSUOJELUHALLINTO</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)</p> <p>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>
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@gjp.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>

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

NATIONAL REPORT: GERMANY

LABOUR INSPECTORATE	OSH LABOUR INSPECTORATES OF THE 16 GERMAN STATES (“LÄNDER”)
OTHER COMPETENT AUTHORITIES	<ul style="list-style-type: none"> • Statutory Accident Insurance Bodies • Consumer Protection bodies • Mining Agencies of the German States • FKS – Customs Authorities

1. THE LABOUR INSPECTORATE

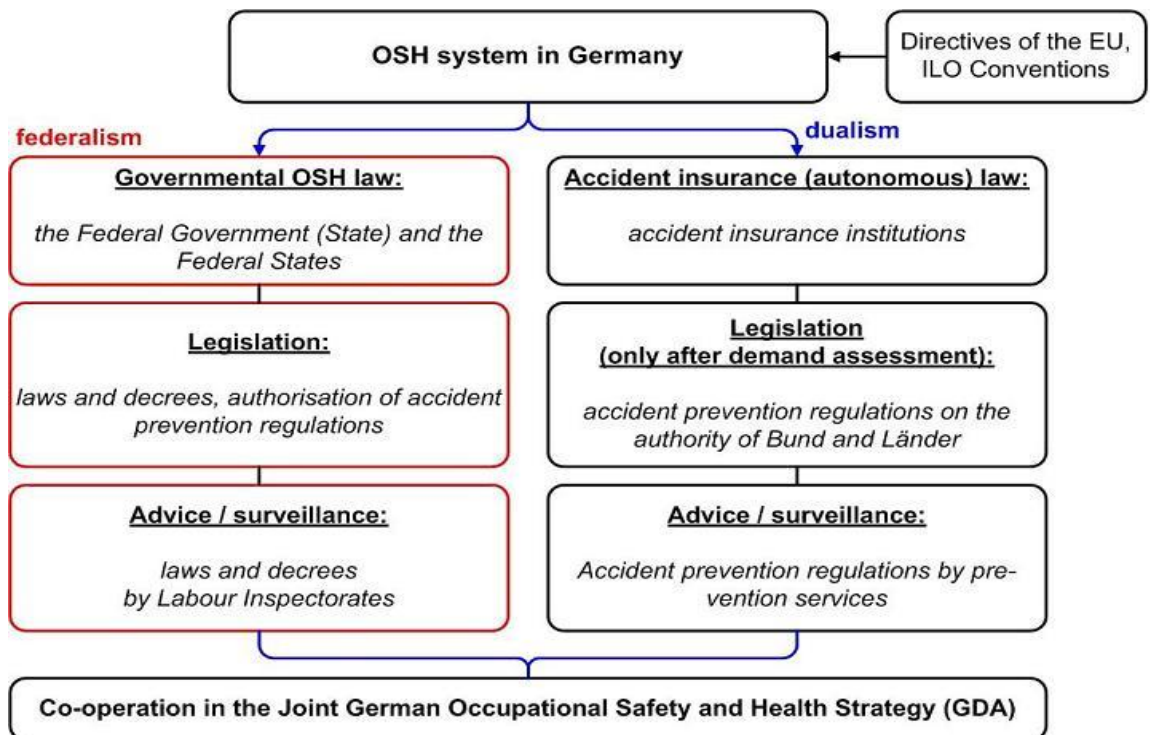
1.1. ORGANISATION OF THE LABOUR INSPECTORATE

Overview of the German occupational safety and health (OSH) system

Germany’s OSH system, which has evolved over many years, relies on a large number of institutions, organisations and other stakeholders all working together.

The term “OSH” (in German *Arbeitsschutz*, literally “work protection”) in Germany refers to all activities aimed at protecting the safety and health of employees at work. This includes preventing occupational accidents, occupational diseases and work-related health hazards, and ensuring decent working conditions. OSH also covers all issues relating to working hours and the protection of vulnerable groups (such as young employees and pregnant women), but not matters of labour law such as holidays and the payment of wages.

The German OSH system is characterised by the principles of federalism and dualism. A schematic overview can be found in the following Figure:



Principle of federalism

According to Article 20 of the German basic law (GG), the Federal Republic of Germany is a democratic and social federal state. It is a political system, or state, consisting of 16 individual constituent states. These 16 constituent states – the *Länder* – are not simply administered by a central power, but enjoy a right to self- or co-determination in key areas. The 16 *Länder* differ in size, population and economic strength. Each *Land* has its own constitution, government and parliament. Two fundamental elements of the federal-state principle are the vertical separation of powers, and the decentralisation of state power.

The Federal Ministry of Labour and Social Affairs (BMAS) is responsible for legislating on OSH and hence for implementing the relevant EU directives. The BMAS prepares laws and ordinances on OSH with the participation of the *Länder*, the umbrella organisations of the trade unions, employers and social accident insurance institutions, and relevant professional associations.

In addition to preparing laws, ordinances and technical rules on OSH, the BMAS also exercises in the field of OSH oversight over the social accident insurance institutions and the Federal Agency for Occupational Safety and Health and Occupational Medicine (BAuA), and is represented in the National Occupational Safety and Health Conference of the Joint German OSH Strategy.

This means that the organisation of the OSH authorities responsible for monitoring adherence to OSH legislation in companies varies greatly from *Land* to *Land*. In all *Länder*, the inspection administration for OSH is subordinate to a higher (the highest) legislative authority – either a ministry or, in the *Stadtstaaten* (city-states) of Berlin, Hamburg and Bremen, a senate department. The responsibilities of these highest authorities also vary from *Land* to *Land*. Generally, the OSH authorities fall under the ministry or senate department responsible for labour, social affairs, health, the environment or the economy.

The inspection authorities also vary greatly in size and, following from this, their degree of specialisation and differentiation. Regional variations in business structures (e.g. large, medium and small businesses, whether the businesses are rural or urban in type, the mix of different industries) also play an important role in determining how the tasks are executed.

These are the data on the human resources of the Federal Labour Inspection System in Germany:

Human Resources (governmental OSH): 2020

	Total number of employees	Of which inspectors	Of which inspectors with OSH tasks
Total	4540	3362	1700 (estimation)

The “State Committee for Occupational Safety, Health and Technology” (LASI) is responsible for harmonizing and coordinating enforcement between the different *Länder*. The LASI is an advisory committee of the ASMK (conference of the German regional ministers of labour and social affairs) that forms a permanent forum for the formation of opinion and for coordination between the OSH administrations of the different *Länder*. The voting members of the LASI are delegations from the highest OSH authorities of each of the 16 *Länder*.

Principle of dualism

In addition to the Federal State Authorities, the German social accident insurance system – as a legal entity under public law – has the responsibility of relieving company owners of their liability for the consequences of occupational accidents and occupational diseases suffered by their employees (the insured individuals also have rights with regard to prevention, rehabilitation and compensation as laid down in the German social security code book (SGB), volume VII (social accident insurance institutions). Insurance entities also have enforcement and inspection powers relating to the accident prevention regulations in coordination with the Federal State Authorities according to the OSH Act.

The German Social Accident Insurance (DGUV) is the umbrella organisation for the social accident insurance institutions for trade, industry and the public sector. Since 2008, Germany has had a national strategy in place, called the “Joint German OSH Strategy” (GDA). Both the OSH authorities of Germany’s 16 *Länder*, and the German social accident insurance institutions, are involved in all three of the areas of activity covered by the GDA. This is based on a framework agreement on collaboration between the governmental OSH authorities in the *Länder* and the German social accident insurance institutions in the context of the Joint German OSH Strategy. The agreement was signed in all 16 *Länder*.

1.2. NATIONAL LEGISLATION AND ILO CONVENTIONS RATIFIED ON LABOUR INSPECTION

Framework Directive 89/391/EEC of 12 June 1989 is implemented, in virtually all areas (the only exceptions being mining, and selected areas of public service), by the occupational safety and health act (ArbSchG). The ArbSchG sets out the basic principles governing OSH and defines the obligations of employers in terms of ensuring the safety and health of their employees. It contains key stipulations regarding the structuring of OSH activities within companies, the implementation of risk assessments, and the definition of OSH measures and the monitoring of their effectiveness by the employer. At the same time, the ArbSchG also sets out the rights and obligations of employees, and the responsibilities and powers of the inspection authorities.

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 OSH Labour Inspectorates of the 16 German „Länder“ are the competent bodies on occupational safety and health with the exceptions and additional competences of other bodies listed below (only general OSH; e.g. no competence of statutory accident insurance bodies in the field of working time).

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	Statutory Accident Insurance Bodies (Unfallversicherungsträger) which are industry-related: 9 bodies in the private sector and 21 in the public sector.

Occupational Safety, in general terms	Yes	Statutory Accident Insurance Bodies
Occupational Health, in general terms	Yes	Statutory Accident Insurance Bodies
Work-related accidents	Yes	Statutory Accident Insurance Bodies
Trade of Machines and Equipments	Yes and No (differs within the Länder: see comment)	In some Länder consumer protection authorities
Radiations	Yes and No (differs within the Länder; see comment)	In some Länder: Environmental Protection Bodies
Explosives	Yes	
Mines	No	Mining authorities of the Länder
Vessels	Yes (partially)	Statutory Accident Insurance Bodies
Retail sector	Yes	Industry related Statutory Accident Insurance Body
Horecca	Yes	Industry related Statutory Accident Insurance Body
Agriculture	Yes (partially, differs in the Länder)	Industry related Statutory Insurance Body
Construction industry	Yes	Industry related Statutory Accident Insurance Body
Aviation	Yes	Industry related Statutory Accident Insurance Body
Railway	Yes	Eisenbahnbundesamt as a federal authority / Federal accident insurance body
Road Transport	Yes	Industry related accident insurance body
REACH	Yes	Federal Institute for Occupational Safety and Health (BAuA)
Self Employed	No	Industry related statutory Insurance Bodies (partially)
Police	Yes	Statutory Accident Insurance Bodies (Unfallkassen)
Civil Servants	Yes (Länder civil servants)	On Federal civil servants: federal authorities
Military personnel and premises	No	Federal authority (Bundesamt für Infrastruktur,

		Umweltschutz und Dienstleistungen)
Penitentiaries	Yes	Branchrelated statutory Insurance bodies (employed prisoners)
Customs	No	Federal authority /federal statutory insurance body

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	

OSH Inspectorates address working time. Holiday claims in universally applicable collective agreements pursuant to the AEntG can be addressed by FKS. Bullying, Harassment and Third Party Violence are addressed in OSH via psychosocial stress; however also in Labour Law.

1.3.3. Labour Law

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

MATTERS	Yes	No	COMMENTS
Salaries		X	Customs authorities control minimum wages (Minimum Wage Act (MiLoG), Posted Workers Act (AEntG) and Act on the Provision of Temporary Workers (AÜG)) by their Financial Control of Undeclared Work unit "Finanzkontrolle Schwarzarbeit" (FKS) Social security providers monitor compliance with social security contribution obligations, in this context they incidentally check compliance with minimum wage obligations and cooperate with the FKS. Labour courts
Equal Treatment		X	Federal anti-discrimination agency (observation) Labour courts

Labour rights		X	Labour courts
Foreign workers		X	Within their competences, FKS monitors compliance regardless of the nationality of the workers. Within their competences, customs authorities also control labour rights of workers employed in Germany by foreign domiciled employers.
Others	The authorities of the customs administration control contributions to special holiday funds according to AEntG.		

In Germany, the authorities of the customs administration under the Federal Ministry of Finance are competent for monitoring and combating illegal employment and undeclared work. These services are grouped together in a unit called Financial Control of Undeclared Work (Finanzkontrolle Schwarzarbeit - FKS).

As part of its mandate, the FKS controls compliance with minimum conditions of employment pursuant to the MiLoG, the AEntG and the AÜG. As to these three minimum wage related acts the FKS fulfills special tasks of a labour inspection - though not being part of the German Labour Inspection and acting on a different legal base.

1.3.4. Social Security

Figure N° 5 Map of competences on Social Security Matters

MATTERS	Yes	No	COMMENTS
Affiliation of workers (REGISTER)		X	Task of customs authorities and Social security insurances
Contributions to Social Security System		X	Social security insurances (pension insurance) (audit)
Social Security benefits		X	Task of Social security insurances
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	Respective cases are transferred to the state prosecutor's office.
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		e.g. meetings of the national liaison agencies to exchange information and solve concrete problems in individual cases.
Police	X		
Public Prosecutor	X		
Others	The collaboration between governmental OSH authorities and other authorities is regulated within the German OSH Act. Subsequently the OSH authorities collaborate with the customs authorities "Financial Control of Undeclared Work." In case of relevant infringements, the FKS may inform the public procurement administration		

2. POSTING OF WORKERS

2.1. NATIONAL LEGISLATION

The legal disposition which 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 The Posted Workers Act (Gesetz über zwingende Arbeitsbedingungen für grenzüberschreitend entsandte und für regelmäßig im Inland beschäftigte Arbeitnehmer und Arbeitnehmerinnen (Arbeitnehmer-Entsendegesetz - AEntG)

The Directive 2014/67 has been implemented in German legislation as well.

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

DIRECTIVE	Yes	No	DATE
Directive 96/71	X		1996
Directive 2014/67	X		
Directive 2018/957		X	

2.2. ADMINISTRATIVE REQUIREMENTS AND CONTROL MEASURES

In the Federal Republic of Germany European posting companies are required, in some cases, to declare posting to the national authorities:

- With regard to efficient controls of the statutory minimum wage, § 16 MiLoG contains a duty to notify the authorities of the customs administration in writing before the commencement of each work or service, if the employer employs workers in one of 10 sectors mentioned in §2a Schwarzarbeitsbekämpfungsgesetz, which are considered to be of high risk of illegal employment (e.g. construction, transport, meat processing industry).
- A comparable duty exists according to § 18 AEntG, if the employment falls under the scope of a sector specific minimum wage or minimum paid leave provision in the framework of AEntG or according to § 17b Arbeitnehmerüberlassungsgesetz for cases of cross-border temporary work/agency work, if the employment falls within the scope of a minimum wage provision for temporary/agency work.

2.2.1. Deadline to submit the declaration

Prior the posting.

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 ¹
Authorization in the sending MS		X
If it is a Temporary Work Agency or not	X ²	
Identity Tax Number		X

WORKERS DATA		
	YES	NO
Number of workers		X
Name of workers	X	
Nationality		X
Age	X	
Role		X

POSTING DATA		
	YES	NO
Envisaged beginning	X ³	
End date of the posting		X
Anticipated Duration	X ⁴	
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

¹ In the case of a posting to a branch with a notification obligation pursuant to the AEntG or posting of a temporary agency worker, the branch of activity in which the employee will be working must be stated.

² Insofar as the beginning and the duration of the hiring out of the worker need to be stated

³ Beginning of the service

⁴ Expected duration of the posting

Use of dangerous agents		X
Prevention services		X

2.3. SOCIAL SECURITY PROCEDURES

A1 forms showing the non-application of German social security legislation for workers posted in Germany are collected and electronically stored by Datenstelle der Rentenversicherung (DSRV). Control authorities (customs, statutory pension insurance, statutory accident insurance, SOKA-BAU) have access to this file.

A1 forms and information on the relevant social security legislation can be received:

- On Posting situations covered by statutory sickness insurance, the competent health insurance authority
- In cases not covered by statutory sickness insurance, the Competent pension authority (DRV Bund, DRV Knappschaft Bahn-See) or the competent regional pension insurance.
- In cases covered by a professional insurance institution scheme for liberal professions, the Arbeitsgemeinschaft Berufsständischer Versorgungseinrichtungen e.V. (ABV)
- When Working in several member states, the GKV-Spitzenverband

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

An employee is not subject to the German social security legislation when the employment is posted abroad and the period of posting is limited in advance. There is therefore no obligation for employers to report accidents of posted workers to the German statutory accident insurance institutions.

In companies subject to general occupational health and safety supervision, the German entrepreneur must inform the competent authority for occupational safety in the event of accidents.

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		

Authorities of the customs administration control minimum wages (MiLoG, AEntG and AÜG) by their Financial Control of Undeclared Work unit - Finanzkontrolle Schwarzarbeit (FKS)-. They control contributions to special holiday funds and holiday-related claims in universally applicable collective agreements according to AEntG as well.

In addition, the FKS is the competent office for controlling the issuing of A1 forms in according to the social security law. They have access to a system of the pension authority (DRV Bund) in which some issued A1 forms by other Member States are supplied (A1 - Datenbank). In order to fulfil their notification obligations (§§ 1, 6 SchwarzArbG) to the Tax authorities of the Länder as well as the authorities of the customs administration, they examine whether there are any indication that tax obligations in connection with services or work have not been complied (e.g. payment of wage tax, turnover tax).

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	According to § 20 para. 2 AEntG and § 18 para 2 MiLoG only the FKS and certain other authorities named in the Act to Combat Undeclared Work and Unlawful Employment are allowed to cooperate with other competent authorities from EU or EEA while respecting applicable legislation on data protection. The cooperation of OSH Länder Authorities follows the general provisions concerning mutual assistance in EU-legislation based matters (in particular para. 8a to 8e of the Administrative Procedure Acts of the Laender).
European Convention in Criminal Matters	Yes	Partially	(Consider that in Germany administrative fines can be appealed to criminal courts) The authorities of the customs administration (FKS) have not been appointed under this convention; however, the convention does apply to the state prosecutors' offices when relevant cases are transferred there by the FKS.
Convention 094 Council of Europe	Yes	Yes	
Others			

3.2. BILATERAL AND MULTILATERAL AGREEMENTS ON LABOUR INSPECTION

Figure N° 13: Bilateral Agreements signed

COUNTRIES	DATE
Austria	1990
France	31.05.2001
Bulgaria	12.11.2008
Czech Republic	28.08.2009
Austria	11.06.2012
The Netherlands	12.01.2012

All five agreements mentioned above aim especially at fighting undeclared/illegal work.

Cooperation with Austria is based the Agreement between German and Austria on administrative collaboration signed in 1988 and entered into force in 1990.

Other bilateral cooperation agreements have been concluded with France, Bulgaria, the Czech Republic, Austria and the Netherlands. The purpose of these agreements is to intensify cooperation in combating social security contribution and benefit fraud in employment and in unregistered employment, and the illegal transnational supply of workers.

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			In Germany this form of cooperation has to comply with national rules on data protection;
Does current regulation in your country allow receiving information	X			

<p>directly from other Labour Inspectorates?</p>				<p>a concrete approval of a Data protection Authority in single cases is not necessary.</p>
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The German Posted Workers Act itself does not provide the international cooperation of OSH Länder Authorities in Article 20. Providing information as to OSH-issues follows instead general provisions concerning cross-border information as to EU-legislation based matters.

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
<p>Use of IMI by the Labour Inspectorate</p>	<p>X⁵</p>	
<p>In affirmative case, specify the liaison offices</p>	<p>Generalzolldirektion, Direktion VII, Finanzkontrolle Schwarzarbeit (General Direction, Direction VII, Finance Control and Undeclared Work)</p>	

IMI is used by the authorities of the customs administration⁶. Incoming requests as to OSH-questions are forwarded by the customs authority to OSH-authorities.

3.4.2. KSS (Knowledge Sharing System)

OSH Länder Authorities usually participate in KSS System.
 Contact: kss.coordinator@SenIAS.berlin.de
Silvia.Czerner@senias.berlin.de

⁵ L.I. of the Laender do not have direct access to IMI, but rather through the customs authorities (FKS) that have been designated as liaison office in the sense of Art. 4 of Directive 96/71/EC and Art. 3 of Directive 2014/67/EU.

⁶ Contact: Bundesfinanzdirektion West – Abteilung Zentrale Facheinheit (poststelle.bfd-west@zoll.bund.de)

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 ⁷	
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		

⁷ Although the fines are of an administrative character, appeal against such fines must be filed with the courts that are responsible for criminal matters.

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	Yes		Administrative fines can be appealed to criminal courts
Directive 2014/67 on administrative fines	X	Yes ⁸		
International or Bilateral Conventions	Agreement between the Federal Republic of Germany and the Republic of Austria on cooperation in administrative and judicial assistance in administrative matters dated 31 May 1988 Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union dated 29.05.2000			
Other National Rules				

⁸ Financial penalties imposed by labour inspectorates in other Member States can be recovered in Germany through the Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties.

ANNEX E-HANDBOOK (UPDATING 2023)

SLIC MEMBER: Mr Kai SCHAEFER /alternate: Dr. Andrea MENNE

MEMBER STATE: GERMANY

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	No	It is not implemented yet.	

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	The Federal Ministry for Digital and Transport is responsible.
Regulation 561/06 on driving time		No X	The Federal Ministry for Digital and Transport is responsible.
Directive 2006/22 on social legislation in road transport	Yes (partially, see comment)		Checks are carried out by the police and the Federal Office for Freight Transport and the Occupational Safety Authorities of the federal states.
Article 1 of Directive 2020/1057 on posting of workers on road transport	Yes (partially, see comment)		Checks are to be carried out by the competent authorities, e.g. the unit for the financial control of undeclared work or the Occupational Safety Authorities of the federal states.

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		Arbeitsstättenverordnung, Anhang Nr. 4.4./Workplace Ordinance Annex 4.4.	August 12 th , 2004 (as amended on December 22 nd 2020)

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

COMPETENCE	COMMENTS
Yes	Workplace Ordinance

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		In order to supplement the already existing legislation, amendments were implemented regarding the Residence Act (notably § 25 para. 4b, § 52 para. 5, § 59 para. 7 and 8, § 98a, § 98b, § 98c) and the Act to Combat Undeclared Work and Unlawful Employment (§ 10a)	November 26 th , 2011

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

COMPETENCE	COMMENTS
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Yes (partially)	
	Checks are carried out by local authorities (Ausländerbehörden), customs administration's unit for the financial control of undeclared work (Finanzkontrolle Schwarzarbeit), police authorities at the federal and Länder level as well as the competent authorities for occupational safety and health (Arbeitsschutzbehörden)

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	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 by the Federal Ministry of Labour and Social Affairs:
<https://www.bmas.de/EN/Europe-and-the-World/Europe/Working-in-another-EU-country/Mobility-within-the-EU/mobility-within-the-eu.html>

Information by the Central Customs Authority:
https://www.zoll.de/EN/Private-individuals/Work/work_node.html

Information for EU citizens ("Faire Mobilität") and for third-country nationals ("Faire Integration"):

<https://www.faire-mobilitaet.de/>

<https://www.fair-arbeiten.eu/>

<https://www.faire-integration.de/>

Information by the Office for the Equal Treatment of EU Workers:

<https://www.eu-gleichbehandlungsstelle.de/>

Information by Social Accident Insurance Institution "SVLFG" for seasonal workers in agriculture:

<https://www.agriwork-germany.de/>

6. COOPERATION WITH ELA

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

The Federal Ministry of Labour and Social Affairs is in close contact with the German national liaison officer and via him, with other national liaison officers. However, direct contacts between the German SLIC members and ELA are not carried out on a regular basis.

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

The German government is represented in all of ELA's working groups (information, inspections, mediation, tackling undeclared work), through by various institutions. In this context, there is active participation in ELA's activities – to the extent that these are relevant to the German context – with respect to the whole range of ELA activities, e.g., last year's Campaign on Seasonal Work as well as various types of training, for example the IMI-PROVE Programme for Road Transport (on the new IMI modules for road transport).

However, to date there is no active participation of the German SLIC members in ELA activities