



Free Movement of Persons – Wage protection

Overview

The Agreement on the Free Movement of Persons (AFMP) concluded between Switzerland and the EU in 1999 not only regulates immigration for the purpose of working, but also the cross-border provision of services by posted employees and self-employed workers. The negotiations with the EU on wage protection related to this area of the AFMP, which applies to workers who come to Switzerland from an EU member state to work for a certain period of time, either at the request of their employer or in a self-employed capacity. Under this reciprocal arrangement, employees and self-employed persons from Switzerland can also carry out work assignments in an EU member state.

Swiss and foreign companies should have the same competitive conditions; cross-border provision of services must not lead to the unfair undercutting of Swiss wages and conditions of employment. This is why the accompanying measures set out in the Posted Workers Act (PWA) were introduced in Switzerland in 2004. The PWA includes provisions on:

- the notification procedure for posted workers;
- the wages and working conditions of posted workers;
- monitoring compliance;
- sanctions in the event of a breach of the conditions.
- measures to combat false self-employment.

The conditions for posting workers are also regulated within the EU. Over time, Switzerland will adopt the EU directives on the posting of workers.

Key elements

During the negotiations, it was important for Switzerland to guarantee the current level of protection and counteract the risk of businesses based in Switzerland being exposed to unfair competition. In order to treat all people working in Switzerland equally, the principle of the 'equal pay for equal work in the same place' also had to be guaranteed.

Switzerland and the EU agreed on a three-point system of safeguards. This contains principles, exceptions and a 'non-regression' clause:

- **Principles:** Switzerland and the EU will adhere to the principle of the 'equal pay for equal work in the same place'. Where workers are posted from the EU to Switzerland, this means that the businesses posting their employees must pay them the wages that are customary in Switzerland. It was also agreed that compliance with wage and working conditions in Switzerland will continue to be monitored by *Commissions Paritaires* comprising trade union and employers' representatives as well as by the cantons (dual enforcement system). The *Commissions Paritaires* may continue to apply the sanctions provided for in their collective employment agreements to companies which post workers.
- **Exceptions:** Specific Swiss requirements are safeguarded, such as the notification period foreign companies must respect prior to providing services in Switzerland. This period has been reduced from eight calendar days to four working days, and only applies to high-risk industries. Outside the high-risk sectors, there is an obligation to notify the authorities before work is started. Switzerland will still be free to autonomously determine the frequency

with which it monitors businesses. Furthermore, Switzerland will also have the right to demand a financial guarantee from foreign posting companies, but only if a posting company has failed to meet its financial obligations to the *Commissions Paritaires* when previously operating in Switzerland. If this financial guarantee is not paid, sanctions may be imposed and the company may be banned from operating in Switzerland until it has paid. Finally, the documentation requirement for self-employed service providers as a measure to combat false self-employment was also retained.

These exceptions will also continue to apply even if EU posting law changes in the future, as they are excluded from the dynamic alignment of law requirement.

- **Non-regression clause:** The new agreement protects the Swiss level of wage protection against any undercutting: If future amendments to the EU law on posting workers meaningfully worsen the level of protection of working and wage conditions agreed between Switzerland and the EU in the revised AFMP, Switzerland would not have to adopt these amendments due to the agreed non-regression clause.

During the negotiations, Switzerland also secured its role as an observer at the European Labour Authority (ELA).

A further aspect of wage protection is rules on expenses. Around 80% of postings to Switzerland come from our neighbouring countries. While these countries permit a similar level of expenses to those payable by companies in this country, other EU member states have lower expenses requirements. If posted workers are not entitled to a level of expenses similar to what is paid to Swiss employees, there is a risk of distortion of competition. This difficult issue was discussed exhaustively in the negotiations with the EU. When implementing rules on expenses, Switzerland will make maximum use of the leeway available under the EU law on posting workers in order to minimise the risk of any distortion of competition.

Switzerland's participation in the Internal Market Information System (IMI) in relation to posted workers is also planned. This will make it possible to exchange information on posting companies with the authorities in the EU member states and to enforce administrative penalties across borders.

Switzerland has negotiated a transitional period of three years after the Switzerland-EU package comes into force for adopting EU posting rights under the AFMP and for participating in the IMI in relation to postings.

Implementation in Switzerland

Implementing legislation

The inclusion in the AFMP of the relevant amendments to the EU law on the posting of workers, and the exceptions to the dynamic alignment of law negotiated with the EU in this area (prior notification period for high-risk sectors, financial guarantee for unpaid fines, documentation requirement for self-employed persons) require amendments to the Posted Workers Act (PWA). Under the PWA, the financial guarantee obligation in the collective employment agreements that have been declared generally binding will be applied to posting companies in the event that they have failed to pay fines, with the possibility of sanctions up to and including a ban on providing services if the financial guarantee is not paid. In addition, the PWA is supplemented with two control instruments provided for under the EU law on the posting of workers (requirement to produce documents immediately and the obligation to appoint a contact person).

With regard to implementing the control and enforcement measures regulated in the EU law on the posting of workers, the PWA introduces principles for granting and requesting administrative assistance in relation to providing information, serving documents and administrative sanctions, and for enforcing these sanctions. Cooperation between the Swiss authorities, including the *Commissions Paritaires*, and the authorities of the EU member states now takes place through participation in the IMI.

With regard to expenses, the PWA will stipulate that the reimbursement of expenses for travelling, meals and accommodation will generally be based on the rules in the posting company's place of origin. However, if the expenses allowed under the rules of the country of origin do not cover the expenses incurred in Switzerland, the difference must be paid.

Domestic accompanying measures

Additional measures are intended to ensure wage protection in Switzerland and maintain the current level of wages. The entire package of measures to ensure wage protection can be divided into four categories (see detailed explanations in the [factsheet on wage protection from March 2025](#) (not available in English)):

- The first category includes compensatory measures by Switzerland, which are necessary to maintain the level of protection due to the negotiated solutions, particularly in the areas of prior notification and financial guarantees. The measures aim to bring about the digitalisation and centralisation of the notification procedure in order to compensate for shortening the deadline for notification.
- The second category comprises supplementary measures, primarily in the construction sector, which aim to address concerns that the ban on services as a sanction under the PWA could come under pressure from the EU.
- The third category concerns the maximum exploitation of domestic room for manoeuvre when implementing EU member state rules on expenses under the PWA.
- The fourth category includes measures that safeguard the employer-union structures for wage protection. This includes safeguarding existing collective employment agreements and the associated processes.

Importance for Switzerland

In the negotiations with the EU, Switzerland agreed on a multi-level system of safeguards in order to protect wage levels. However, certain concessions to the EU were unavoidable. The Federal Council, cantons, employers and unions therefore agreed on additional domestic policy measures in March 2025. Taken together, the negotiated agreement, the implementing legislation and the accompanying domestic measures mean that the level of wage protection will be maintained.

Specifically

- **Wage protection concept and sanction options:** An employee of a carpentry company in an EU member state has been given the job in Switzerland of fitting kitchens in a new apartment block. Under the law, she must receive the same salary and have the same working conditions as an employee of a Swiss carpentry company. This is guaranteed by the accompanying measures in Switzerland. These not only protect the high level of wages and working conditions for employees in Switzerland, but also protect Swiss companies from competition from abroad that distorts competition. Compliance with wage protection requirements is monitored. The Swiss law enforcement agencies can plan and carry out their checks because they are given advance notice of the work being done in Switzerland thanks to the four-day notification period. As before, inspections are carried out by trade unions and employers (*Commissions Paritaires*) or by the relevant canton.

If the inspection bodies identify any infringements of Swiss wage and working conditions, such as excessively low wages, various sanctions may be imposed:

- The company concerned may be fined or, in the case of serious offences, banned from providing its services.

- If the joint inspection bodies detected an infringement of Swiss wage and working conditions in a previous job carried out by the EU carpentry company and the company has not paid the fine imposed for that, the company must pay a financial guarantee as security before the starting on the current job.
- If the foreign company fails to pay this financial guarantee, the cantonal authorities may impose a further fine or ban it from providing its services. This would prohibit the company from operating in Switzerland.
- If the employee from the EU country does not receive the wage payable in Switzerland from her EU employer and if the contract was awarded via a Swiss general contractor, the general contractor may be held liable for her employer's infringement of the rules. This is because the primary contractor is liable (vicarious liability).
- **Expenses:** The AFMP between Switzerland and the EU guarantees the equal pay for equal work in the same place in order to protect employees and businesses in Switzerland. As far as the reimbursement of expenses is concerned, the EU rules stipulate that posted workers should be reimbursed for expenses in accordance with the law in their country of origin. This means that the employer from the EU must pay any expenses according to the law in his country if he sends an employee to Switzerland to install a kitchen.

However, under the Swiss PWA, posted workers such as this employee must be reimbursed for the expenses that they actually incur in Switzerland when doing the job irrespective of what the rules on expenses in their country of origin might say. Their expenses payments are also monitored accordingly and sanctions are imposed if EU employers violate the Swiss PWA. Among the EU member states, countries with inadequate rules on expenses are the exception. Many EU member states, especially our neighbouring countries, have rules on expenses in their national law that are equivalent to the regulations in Switzerland, and around 80% of all postings to Switzerland are from a neighbouring country.

- **What happens if a posting company does not reimburse expenses properly?** A *Commission Paritaire* establishes that the carpentry company from the EU member state is in breach of Swiss expenses regulations and that the employee is having to pay expenses out of her wages. Unless the company can prove that it has reimbursed the costs necessarily incurred for travelling, meals and accommodation during their employee's three-day stay for installing the kitchen, the *Commission Paritaire* will report the company for infringing the rules on wages to the competent cantonal authority which may impose a fine. The company is entitled to contest the fine and take the matter as far as the Federal Supreme Court; it could argue that the expenses are not reimbursable under the law of its country of origin, as provided for in the EU rules on expenses. Switzerland, however, has valid arguments in its favour: the revised Swiss PWA gives due consideration to the law in the country of origin, but only to the extent that the costs necessarily incurred for travelling, meals and accommodation are covered. If these costs are not covered, this is a breach of the principle that workers should receive the "equal pay for equal work in the same place", which is also part of the revised AFMP.