

## THE WORK OF FOREIGN WORKERS

The work of foreign workers (persons who are not Croatian citizens), working conditions and rights of workers posted in the Republic of Croatia are determined in accordance with the provision of Article 54 of the Occupational Health and Safety Act (Official Gazette, No. 71/14, 118/14, 94/18 and 96/18), which stipulates that foreign workers must, in addition to the conditions prescribed by special regulations, meet the conditions prescribed by the provisions of the said Act and regulations adopted on the basis thereof.

It is also important to note that a foreign employer in relation to health protection and safety at work, according to the provisions of Articles 6 and 7 of the Act on Posting Workers to the Republic of Croatia and Cross-border Enforcement on Fines (Official Gazette 128/20 and 114/22), during the posting of the employee to the Republic of Croatia is obliged to apply the provisions of the regulations of the Republic of Croatia or the extended collective agreement, and if the guaranteed working conditions from articles 6 and 11 of the said Act are more favorably regulated by the law of the state where the employer is registered than the law of the Republic of Croatia, a more favorable right applies to the placed worker.

These rights are guaranteed to workers - posted workers who have been sent to work in the Republic of Croatia by a foreign employer as part of temporary or occasional cross-border provision of services for a limited period of time.

During the performance of activities in the Republic of Croatia, an employer established in a non-EEA Member State is obliged to organize and implement occupational health and safety in accordance with the Occupational Health and Safety Act and regulations adopted on the basis of it, as well as other regulations in force in the Republic of Croatia.

When a legal person with a registered office in the Republic of Croatia or an employer - natural person with a registered office in the Republic of Croatia employs or uses the services of a foreign worker, by including him in its work process and has an appropriate contract or other proof of work, we are of the opinion that legal or natural person with its registered office in the Republic of Croatia is responsible for organizing and implementing occupational safety for that foreign worker. The same applies to foreign workers who are included in the work process by employers - legal or natural persons with a registered office in the Republic of Croatia as posted workers by the Temporary Employment Agencies.

When foreign workers are involved in the work process of the domestic employer – the user, then the domestic employer – the user is responsible for organizing and implementing of occupational health and safety for those foreign workers. When employers of a legal or natural person with an office registered in the Republic of Croatia or natural persons who are citizens of the Republic of Croatia have concluded an appropriate contract or other proof of work with a foreign employer, which is posting foreign worker to work in the Republic of Croatia, in that case, the foreign employer is responsible for organisation and implementation of occupational health and safety for the foreign worker who is posted to work in the Republic of Croatia for their own account and under their own management.

**Taking into account the abovementioned, the following is an overview of the basic occupational health and safety obligations that need to be fulfilled by foreign employers in relation to foreign workers:**

### **Risk assessment for tasks performed by foreign workers at workplaces**

According to the provision of Article 18 of the Occupational Health and Safety Act, the employer is obliged, taking into account the work and its nature, to assess risks to life and health of employees and peoples at work, particularly in relation to means of work, the work

environment, technology, physical harms, used chemicals i.e. biological agents, design of the workplace, the organization of the work process, work monotony, stato-dynamic and psychophysiological exertions, work at a set pace, result-based working a given period of time (normative work), night work, mental workload and other risks that are present, for the purpose of preventing or reducing the risk in relation to this provision, the Ordinance on Risk Assessment (Official Gazette, 112/14 and 129/19) applies.

Foreign employers established in another EEA Member State will be granted a recognition of a risk assessment that is in accordance with the regulations of the country from which the foreign employer comes (where the employer is established), if the risk assessment corresponds to the risks of performing the activities at workplaces.

The risk assessment must be available in Croatian language and Latin script, noting that a translation by a certified court interpreter is not required.

### **Performing of occupational health and safety tasks**

The employer is obliged to perform occupational health and safety activities in accordance with the provisions of Article 20 of the Occupational Health and Safety Act and the provisions of the Ordinance on performing of Occupational Health and Safety tasks (Official Gazette, No. 126/19 and 154/22).

Foreign employers established in another EEA Member State will be recognized as complying with the provisions of Article 20 of the Occupational Health and Safety Act if they have been carried out in accordance with the regulations of the country from which the foreign employer comes (in which the employer is established).

Foreign employers also have the possibility to additionally contract performing of occupational health and safety tasks with natural or legal person authorised to perform occupational health and safety tasks.

The list of persons authorised to perform occupational health and safety tasks is available at the following link: <http://uznr.mrms.hr/znr/ovlastenja/>.

### **Training for work in a safe manner for the tasks that worker performs**

Foreign workers must be trained to work in a safe manner.

The foreign employer is obliged to inform the posted worker before the starting of work about all the facts and circumstances that affect or could affect the safety and health of employees related to the performance of work and to train them to work in a safe manner. Training of employees for work in a safe manner is carried out in accordance with the provisions of the Ordinance on training and further training in occupational safety and the taking of professional examinations (Official Gazette, No. 142/21). Foreign workers from EEA (European Economic Area) Member States who are trained to work in a safe manner under the regulations of the country they come from and have proof of this in accordance with the regulations of that country, do not have to be re-trained to work in a safe manner in the Republic of Croatia, however, a proficiency check (practical part) is required at the place of work in the Republic of Croatia.

Please note that in relation to the aforementioned proficiency check (practical part) at the place of work in the Republic of Croatia, the record of evaluation of the proficiency of workers for work in a safe manner gives a description of the jobs and activities for which the check was carried out, and in the part of the record titled Place, period and manner of conducting theoretical training of workers, provides evidence in accordance with the regulations of the country from which the worker comes about the conducted training.

The aforementioned proficiency check (practical part) at the place of work in the Republic of Croatia may be performed by a person designated for performing occupational safety activities in the Republic of Croatia, in accordance with the provisions of the Ordinance on training and further training in occupational safety and the taking of professional examinations, i.e. the check may be performed by a foreign employer for his employees, however, the check (practical part) must also be performed in accordance with the provisions of the provisions of the said Ordinance, noting that the record of evaluation of the proficiency may in that case be signed by a person responsible for implementing occupational safety measures for foreign workers, the person who carries out occupational safety tasks with the employer and the worker himself.

Foreign workers who are not trained to work in a safe manner may work under the supervision of a worker who is trained to work in a safe manner for the jobs that workers perform, but such a mode of operation may last up to 60 days.

All evidence documents must be issued in Croatian language and Latin script or, if issued in another language, must be translated into Croatian language and Latin script by a certified court interpreter.

### **Design of the workplace in accordance with the rules of occupational health and safety**

Workplaces must be arranged in accordance with basic, special and recognized occupational health and safety rules.

According to the provision of Article 3, paragraph 1, subparagraph 5 of the Occupational Health and Safety Act, a workplace is every place at which the employees and persons at work have to be, or have to go to, or have access to during work due to the work they perform for the employer, as well as any space i.e. room used by the employer to perform work and is under his direct or indirect supervision. Regarding the workplaces, the provisions of the Ordinance on occupational health and safety in the workplace (Official Gazette, No. 105/20) apply.

Pursuant to provisions of Article 53, paragraph 1 of the Occupational Health and Safety Act, the employer is obliged to permanently set up safety signs in a visible place at workplaces and means of work. Notifications and instructions at workplaces must be in a language and script that the foreign worker understands. The employer is obliged to test the working environment at the workplace – physical, chemical and biological factors of the working environment in accordance with the provisions of the Ordinance on the examination of the working environment (Official Gazette, No. 16/16 and 120/22). Documents issued in the Republic of Croatia by persons authorized for occupational health and safety matters are recognized in connection with the examination of the working environment.

### **Meeting special conditions for performing work with special working conditions**

Jobs with special working conditions are determined by the Ordinance on jobs with special working conditions (Official Gazette, No. 5/84). Foreign workers, who perform jobs with special working conditions in accordance with the provisions of the Ordinance on jobs with special working conditions (Official Gazette, No. 5/84), must also meet special requirements relating to age, gender, professional abilities, health, physical and mental condition for performing work with special working conditions.

Jobs with special working conditions performed by foreign workers, for which the condition of a professional qualification is prescribed, are jobs listed in the appendix to the Ordinance on jobs with special working conditions. Appropriate documents valid in an EEA Member State or relevant documents issued in the Republic of Croatia will be recognized as proof that foreign workers (posted workers) are professionally qualified. For jobs for which the appropriate level of education

is prescribed under professional qualifications, proof for foreign workers must be carried out in accordance with special regulations on the recognition of foreign qualifications.

The method of determining medical fitness, deadlines within which the determination of medical fitness must be repeated, the content and manner of issuing medical fitness certificates and other issues important for determining the medical fitness of workers shall be carried out in accordance with the Ordinance on jobs with special working conditions and the Ordinance on jobs on which worker can work can work on only after prior and regular determination of medical fitness (Official Gazette, No. 70/10).

Evidence (medical reports, certificates, etc.) of medical fitness issued in an EEA Member State will be recognized as proof that the foreign worker (posted worker) meets the condition of medical fitness, provided that they indicate which jobs with special conditions the worker may perform (e.g. work at height, manual handling of loads, driver, etc.), or appropriate documents issued in the Republic of Croatia will be recognized.

All evidence documents must be issued in Croatian language and Latin script or, if issued in another language, must be translated into Croatian language and Latin script by a certified court interpreter.

### **Inspections, maintenance and testing of means of work**

The means of work used by foreign workers must be inspected, maintained, tested and in good condition.

According to the provision of Article 3, paragraph 1, subparagraph 27 of the Occupational Health and Safety Act, means of work are facilities designed for work with their installations, devices and equipment, means of transport and work equipment

The provision of Article 42 paragraph 1 of the Occupational Health and Safety Act stipulates that the employer is obliged, in accordance with the said Act, its implementing regulations, occupational health and safety rules, special regulations i.e. manufacturer's instructions, the employer is obliged to inspect i.e. test the means of work used, to determine whether occupational health and safety rules have been applied and whether the health and safety of employees have been put at risk due to changes that have occurred during their use.

In relation to this provision, regarding work equipment as part of the means of work, Ordinance on health and safety while using work equipment (Official Gazette, No. 18/17) and the Ordinance on inspection and testing of work equipment (Official Gazette, No. 16/16 and 120/22) apply. For work equipment, for which the obligation to inspect it and to test it is prescribed by the Ordinance on inspection and testing of work equipment, foreign employers' appropriate documents on inspection and testing of work equipment valid in the EEA Member State will be recognized or relevant documents issued in Croatia by persons authorized for occupational health and safety will be recognized. Work equipment that has been dismantled and reassembled in the Republic of Croatia, e.g., a crane assembled on a construction site in the Republic of Croatia, must be inspected and examined in the Republic of Croatia by a person authorized for occupational health and safety.

Pursuant to the provision of Article 3, paragraph 1, subparagraph 20 of the Occupational Safety and Health Act, work equipment is machinery and appliances, plants, means of conveyance and transport of freight, tools and scaffolding and other devices for periodical work at height.

### **Availability to the worker of the risk assessment, records, notifications, instructions, etc.**

Pursuant to the provision of Article 62, paragraph 2 of the Occupational Health and Safety Act, the employer is obliged to ensure that the worker has access to:

- 1) risk assessments for the workplace and tasks to be performed in that workplace
  - 2) instructions for safe working practices for the workplace and tasks to be performed at that workplace.
  - 3) a written document as evidence that the employee has been trained in safe working practices
  - 4) a written document showing that the employee fulfils the requirements to perform tasks with special working conditions
  - 5) a record of the checks carried out on the work equipment, installations and work environment.
- (3) By way of derogation from paragraph 2 of this Article, risk assessment, documents and records need not be kept on a work site at which work is scheduled to last for longer than 30 days, but must be made available within a period specified by a competent inspector.

The risk assessment for the workplace and tasks to be performed in that workplace must be available in Croatian language and Latin script (it does not have to be translated by a certified court interpreter).

The foreign worker must have access to instructions for work in a safe manner for the workplace and the and tasks to be performed in that workplace in a language that the worker understands.

A record of the assessment of the worker's qualification to work in a safe manner must be available for the foreign worker (practical part).

Evidence must be available for the foreign worker that the worker meets the conditions for performing work with special working conditions valid in the EEA Member State from which the worker comes or the relevant documents issued in the Republic of Croatia.

Records of the checks carried out on the work equipment, installations and work environment must be available for the foreign worker, i.e. in this regard the evidence valid in the EEA Member State from which the worker comes or the relevant documents issued in the Republic of Croatia.

All of the abovementioned documentation and evidence must be issued in Croatian language and Latin script, or, if issued in another language, must be translated into Croatian language and Latin script by a certified court interpreter.

### **Workplace health protection (occupational medical services)**

According to the provision of Article 63 of the Occupational Health and Safety Act, the employer is obliged to provide an employee with appropriate health protection depending on the health and safety risks to which the employee is exposed in the workplace, in accordance with special regulations governing health protection measures related to work. Foreign employers established in another EEA Member State, compliance with provisions in Article 63 of the Occupational Health and Safety Act will be recognized if they have been carried out in accordance with the regulations of the EEG Member State from which the foreign employer comes (where the employer is established).

### **The provision of first aid**

The provisions of Article 56 of the Occupational Health and Safety Act prescribe:

- (1) The employer is obliged to organize and ensure first-aid assistance for employees and other persons until they have been provided with emergency medical care or until they have been admitted to a health care institution. The employer shall also ensure that the public emergency medical service is able to intervene.



(2) On every work site or in workrooms where between 2 and 50 employees work at the same time, at least one employee, and one more employee per every additional group of up to 50 employees, must be trained to provide first aid in accordance with occupational health and safety rules and the employee should be provided with a written notice that he has been designated to provide first aid.

(3) The employer is obliged to provide means and equipment for the provision of first aid, which must always be available, indicated by signs and protected from unauthorized use.

Foreign employers established in another EEA Member State shall be recognized first aid training and related documents, valid in the country from which the employer comes (where the employer is established), and the number of persons trained and designated for the provision of first aid must comply with the provisions of Article 56, paragraph 2 of the Occupational Health and Safety Act. When a foreign employer performs work at workplaces where other employers (domestic or foreign) are present, they have the possibility to jointly organize the provision of first aid with these employers (e.g., on the construction site), taking into account the provisions of Article 56 of the Occupational Health and Safety Act. The provisions of the Ordinance on the provision of first aid to employees at work ('Official Gazette', no. 56/83) also apply to the provision of first aid.

All evidence must be issued in Croatian language and Latin script or, if issued in another language, must be translated into Croatian language and Latin script by a certified court interpreter.

### **Fire protection, evacuation and rescue operations**

Regarding fire protection, evacuation and rescue operations, according to the provision of Article 55, paragraph 2 of the Occupational Health and Safety Act, the employer is obliged to determine and ensure the number of employees, their training and necessary equipment, in accordance with the regulations governing fire safety and rescue operations, depending on the nature of work processes, the size of the employer and the total number of its employees., i.e. special regulations within the competence of the Ministry of the Interior apply in this case. Fire protection should be provided in accordance with fire protection regulations that are within the competence of the Ministry of the Interior. With regard to evacuation and safety training, foreign employers established in another EEA Member state will be recognized evacuation and rescue training and other related documents valid in the country from which the employer comes from (where the employer is established).

All evidence documents must be issued in Croatian language and Latin script or, if issued in another language, must be translated into Croatian language and Latin script by a certified court interpreter.

### **Work in accordance with the rules of occupational health and safety**

Foreign workers must perform their duties in accordance with the basic, special and recognized rules of occupational health and safety. Basic and special rules of occupational health and safety are prescribed by the Occupational Health Safety Act and regulations adopted on the basis thereof. Recognized rules of occupational health and safety are applied if the legal system of the Republic of Croatia does not have legal rules of occupational health and safety that the employer should apply for the safety and health of workers, and recognized rules of occupational health and safety include norms, rules of the profession or methods proven in practice, which eliminate or reduce risks at work and which prevent the occurrence of injuries at work, occupational diseases, work-related diseases and other consequences harmful for workers.

When organizing and implementing work processes, depending on tasks, work technology, means of work and hazardous chemicals used, work environment, etc., it is necessary to meet other obligations arising from occupational health and safety regulations. A list of occupational

health and safety regulations is available at the following link:

<https://uznr.mrms.hr/propisi/nacionalni-propisi/>

**Other – below are some of the obligations arising from the above regulations on occupational health and safety and e.g.:**

- there is a prohibition of smoking in a workplace
- there is prohibition of the use of addictive substances, the worker must not be under the influence of alcohol and other addictive substances and they must not bring them to the workplace
- there is an obligation to submit a notice about construction works and activities of forest exploitation to the body competent for labour inspection before the work starts
- the employer carrying out construction works or the activities of forest exploitation shall, before the work begins on a temporary work site, prepare the work site and ensure that the works are carried out in accordance with special regulations and occupational health and safety rules.
- employers that work on the same site, or several employers who share the workplace or where two or more employers or other persons (contractors) are carrying out work or are scheduled to carry out work at a workplace, must implement occupational health and safety measures, taking into account the nature of the work, coordinate their activities, provide information and cooperate in the implementation of the health and safety provisions under this Act with a view to protecting and preventing risks at work and they must organize the work and ensure that it is carried out in such a way that the health and safety of employees working for other employers and other persons are not endangered.
- foreign professional qualifications that meet the requirements of Article 23 of the Ordinance on Occupational Health and Safety Training and Professional Examination may be recognized to a foreign worker for performing the duties of coordinator for occupational health and safety matters, on which the Ministry of Labour, Pension System, Family and Social Policy for each individual the case can give an opinion
- the employer is obliged to implement stress prevention at work or in relation to work caused in particular by factors such as content of work, work organization, working environment, poor communication and interpersonal relationships, in order to minimize the employee's need to overcome difficulties of long-term exposure to intense pressure and to eliminate the possibility of impairing the employee's work efficiency and of the deterioration of his condition.