DUTY OF CARE — BUSINESS TRAVEL

For MANAGEMENT HR

What the law expects of you

Duty of Care: your duty of safety towards an employee who goes to work abroad.

As soon as an employee goes to work abroad — two days at a trade fair in Milan or three weeks on a site in Houston —, you remain responsible for their safety, as at the office. An accident, a hospital stay, a country that turns: the question the judge, the labour inspector or the family's lawyer will ask you is simple. What had you planned, and can you prove it?

> A technician sent to Houston for two weeks has a car accident on a Saturday night. The hospital sends a six-figure bill; social security reimburses a fraction, nothing for the medical flight home. His family asks what you had planned — and whether you can show it.

WHAT THE LAW SAYS

No zero risk.

Reasonable measures — and proof that they were taken.

The law does not require that nothing happens. In France, an employer that proves it took the measures set out in the Labour Code has met its safety obligation (Court of Cassation, 2015). In Switzerland, if an employee is injured and a measure was missing, it is for you to prove you could do nothing about it. What you will be blamed for is not the accident: it is having planned nothing, or being unable to show it.

WHAT YOU RISK

- **The company, in France** — inexcusable fault: the company itself pays, on top of social security, an increased pension and the losses that pension does not cover. It is automatic if the victim themselves or a staff representative had warned you of the danger.
- **The CEO, in France** — involuntary homicide or injury, if they let a serious risk run that they could not ignore or deliberately broke a safety rule: up to three years in prison and a €45,000 fine, five years and €75,000 if the breach was deliberate. The company itself: a fine of up to €225,000. You can delegate to your HR director — in writing, with the authority and means that go with it. Otherwise, it is you.
- **In Switzerland** — negligent homicide or injury, for anyone who had to act and did not: CEO, HR director, manager who approved the trip (up to three years). The company itself, if nobody can be identified for lack of organisation: up to five million francs.
- **And the hospital** — outside Europe, French social security reimburses at most at French rates, a fraction of an American bill, and never the repatriation. The rest falls on the employee — or on you, if they left without cover.

THE FIVE OBLIGATIONS, IN PLAIN WORDS

	WHAT IT MEANS FOR YOU	THE PROOF TO KEEP
1	**Assess the risks — before departure, and during the mission** Before each departure, read what your foreign ministry says about the destination: every ministry says, country by country and often region by region, how far it advises against travel, from “normal caution” to “do not travel” — the “level” this whole sheet refers to. Decide whether the employee goes and on what conditions, and record that decision. During the mission, follow the country, know where each person is, be able to reach them, react if the situation changes. Present this organisation to staff representatives: in France to the works council (CSE, from 11 employees), consulted on the risk register; in Switzerland to the staff committee or, failing that, to the employees concerned.	A dated assessment per destination; the decision, its author and date; the consultation minutes.
2	**Plan who pays for care and repatriation** No text imposes insurance, but the risk assessment obliges you to plan, before departure, who will pay the hospital and the journey home. Outside Europe, compulsory schemes stop early: French social security reimburses at most at French rates and never the repatriation; Swiss insurance at most twice the Swiss rate and, after an accident, transport up to CHF 29,640.	The policy; each traveller's certificate.
3	**Inform before departure** Give the employee, before they leave, the country's risks, your instructions, what to do if something happens and the number to call — and do it again at every change.	The read receipt, dated.
4	**Settle the departure paperwork** Request before departure the certificate proving that the employee remains insured with you: the A1 form in Europe (and in the United Kingdom from France), the posting certificate elsewhere. Without it, an inspection on site can claim contributions from you. From France, if the mission exceeds four consecutive weeks, hand over before departure a written document (country, duration, pay currency, return conditions).	The certificate; the document handed over, and the date it was received.
5	**Report the work accident** In France, any accident during the mission is presumed to be a work accident — meals, hotel and evenings included — unless the employee had left the mission for a personal reason: report it within 48 hours of learning of it. In Switzerland, occupational or not, the accident is covered by accident insurance: notify the insurer without delay.	The report receipt.

So: Five obligations, five dated proofs. What has to be done, in time order: page 2. The texts, for your counsel: page 3. How Maximum answers: page 4.

WHAT HAS TO BE DONE

For HR MANAGEMENT

Concretely, in time order

What the law expects of you, as it stands, if you do it yourself — with or without a tool. The red number in front of each line refers to the obligation on page 1.

ONCE — THE FRAMEWORK

- ☐ **1** Include travel abroad in your risk assessment (the single risk register, in France): destinations, risks identified, measures adopted, emergency organisation.
- ☐ **1** Present this organisation to staff representatives: in France to the works council (CSE, from 11 employees), which is consulted on the risk register and its updates; in Switzerland to the staff committee or, failing that, to the employees concerned. Keep the minutes.
- ☐ **1** Designate in writing who authorises departures and who answers alerts. In France, the CEO only transfers criminal liability through a written delegation to a competent person, with the necessary authority and means.
- ☐ **2** Choose who will pay the hospital and the repatriation: outside Europe, compulsory schemes stop early.

BEFORE EACH DEPARTURE

- ☐ **1** Read your foreign ministry's travel advice page for the destination (France Diplomatie; in Switzerland, the FDFA): its level and its areas to avoid.
- ☐ **1** Decide: authorise, authorise with conditions, refuse. Record who decided, when, and at what level.
- ☐ **2** Check that the traveller is covered, certificate in hand.
- ☐ **3** Give the employee the country's risks, your instructions (hotel, travel at night, whom to call), what to do and the emergency number; collect their read receipt, dated.
- ☐ **4** Request the certificate proving that the employee remains insured with you — A1 in Europe (in the United Kingdom too from France; one “multi-state” A1 is enough for someone who travels around Europe all year), posting certificate elsewhere — and keep it. From France, if the mission exceeds four consecutive weeks: hand over before departure, against a dated receipt, the mandatory written document (country, expected duration, pay currency, mission-related benefits, return conditions).

DURING THE MISSION

- ☐ **1** Follow, throughout the mission, your ministry's advice on that country — daily if the situation is unstable. Know which city each person is in and be able to reach them. If the level changes: reassess and decide in writing — maintain with measures, relocate, repatriate.
- ☐ **1** If an employee tells you they do not feel safe, react without delay and keep a written record of your answer and of the measure taken.

IF AN ACCIDENT OCCURS

- ☐ **5** Report the work accident: in France within 48 hours to the CPAM, giving the employee the accident form — and, in case of death, inform the labour inspectorate within 12 hours; in Switzerland, without delay to your accident insurer (SUVA or the private insurer of your LAA policy). Keep the receipt.
  - The employee calls local emergency services if their life is in danger, then your policy's assistance line before incurring costs, and informs you within 24 hours.

ALWAYS

- ☐ Keep dated proof of every measure — assessments, decisions, receipts, certificates, exchanges — and be able to produce it years later: in France, a criminal prosecution can come six years after the facts and each version of the risk register is kept for forty years; in Switzerland, a claim can come twenty years later.

WHAT THE LAW DOES NOT REQUIRE

what you can leave aside

- No standard or certification: ISO 31030, on travel risk management, is a set of recommendations.
- Neither tracking software nor real-time geolocation.
- No incident log or return-from-mission debrief: only the accident report and the resulting update of the risk assessment are due.
- No prescribed form for the archive — except the risk register, each version of which is kept forty years: what matters is producing the proof, dated, the day it is asked of you.
- No mandatory registration on Ariane (France) or Travel Admin (Switzerland), the ministries' traveller registers: useful, optional.
- No systematic medical check or vaccination before departure, unless a collective agreement or occupational exposure to biological agents requires it.
- No separate travel policy: its content belongs in the risk assessment.

THE TEXTS — FOR YOUR COUNSEL

For HR COUNSEL

Five obligations, their texts

The five obligations that govern travel, with their texts under French and Swiss law.

	WHAT YOU MUST DO	FRANCE	SWITZERLAND
1	■ **Assess the risks of each destination and mission; record the measures adopted.** ■ **Reassess when the situation changes: follow the country, adapt, suspend or end the mission.** ■ **Be able to reach each employee on mission and know which country they are in; react to each of their alerts. Geolocation is not required and remains regulated.** ■ **Consult staff representatives: France, the works council (CSE, from 11 employees) on the risk register and its updates; Switzerland, in every company.**	Labour Code, L4121-1 to L4121-3; single risk register (R4121-1), reviewed yearly from 11 staff and at every change (R4121-2), versions kept 40 years (L4121-3-1); works council consulted on the register and its updates: L4121-3; from 50 staff (general consultations, monitoring tools): L2312-8, L2312-38; serious danger: L4131-1 and L4131-4; monitoring: L1121-1, L1222-4, GDPR; Cass. soc., 7 Dec. 2011, no. 10-22.875	CO, art. 328(2) and 328b (work abroad falls under the CO, the LTr and OPA being territorial); LTr, art. 6; LAA, art. 82; OPA, art. 3, 6a and 11a; OLT 3, art. 6 and 26; FADP (revised 2023), art. 6
2	■ **Decide, before departure, how care and repatriation will be covered abroad.** ■ **Compulsory schemes stop early: outside Europe, French social security reimburses at most at French rates and never the repatriation; Swiss insurance at most twice the Swiss rate and, after an accident, transport up to CHF 29,640.**	Social Security Code, R160-4: outside the EU, EEA and Switzerland, reimbursement at most at the French tariff; no repatriation	OAMal, art. 36 and OLAA, art. 17: at most twice the Swiss tariff; LAA transport capped at CHF 29,640 (OLAA, art. 20)
3	■ **Before departure, inform the employee: country risks, instructions, what to do, whom to call.** ■ **Do it again at every change.**	Art. L4121-1 2°, L4141-1 and L4141-2	CO, art. 328; OPA, art. 6; OLT 3, art. 5
4	■ **Settle social security before departure: A1 form in the EU, the EEA, Switzerland and the United Kingdom; posting certificate (bilateral agreement) or continuation certificate elsewhere.** ■ **Mission over four weeks from France: provide the mandatory written statement before departure.**	Reg. (EC) 883/2004, art. 12; 987/2009, art. 15; Social Security Code, L761-2 and R761-1; Labour Code, L5422-13 ; Art. L1221-5-1; R1221-36 and R1221-37; delivery with proof of date (R1221-39)	LAA, art. 2 and OLAA, art. 4; OAMal, art. 4 (two years, up to six); A1 or posting certificate issued by the AHV compensation office
5	■ **Report any accident during a mission. France: presumed to be a work accident for the whole mission, meals and evenings included, unless interrupted for a personal reason. Switzerland: occupational or not, the accident is covered by the LAA.** ■ **France: within 48 hours to the CPAM; death: labour inspectorate within 12 hours. Switzerland: without delay to the accident insurer.**	Social Security Code, L411-1; Cass. soc., 19 July 2001, no. 99-20.603; report within 48 hours (L441-2, R441-3); death: Labour Code, R4121-5	LAA, art. 7 and 8; notify the insurer without delay (LAA, art. 45)

In the European Union, directive 89/391/EEC is the common foundation of these texts.

WHAT YOU RISK

The company (France) — Inexcusable fault: increased pension and compensation for the losses that pension does not cover. It applies as of right where the risk had been reported by the employee or a staff representative.	Social Security Code, L452-1 to L452-3; Labour Code, L4131-4; Cons. const., 18 June 2010, no. 2010-8 QPC
The CEO and delegates (France) — Involuntary homicide, where they deliberately broke a safety rule or committed a characterised fault exposing others to a serious risk they could not ignore (121-3(4)): three years' imprisonment and a EUR 45,000 fine, raised to five years and EUR 75,000 for a deliberate breach; involuntary injury (incapacity over three months): two years and EUR 30,000, raised to three years and EUR 45,000. The CEO is relieved only by a written delegation to a person with the necessary competence, authority and means.	Criminal Code, 121-3, 221-6, 222-19; Cass. crim., 11 March 1993, no. 90-84.931
The company, criminal law (France) — Same offences: a fine of up to EUR 225,000, EUR 375,000 for a deliberate breach.	Criminal Code, 121-2, 131-38, 221-7, 222-21
The company and its managers (Switzerland) — Negligent homicide or bodily harm, for anyone who had to act and did not (up to three years); the company itself, in the alternative, up to CHF 5 million.	Criminal Code, art. 117, 125, 11, 29 and 102

WHAT MAXIMUM DOES

For **MANAGEMENT**

How Maximum answers

The law does not require a tool; it requires proof. Maximum is a policy that pays for care and repatriation, and an online space reserved for your company — a website, nothing to install — that prepares the documents, sends them to employees, watches the countries and dates every proof. The responsibility remains yours: you keep every decision, the space does the rest.

	WHAT THE SPACE DOES	WHAT REMAINS YOURS
1	**Assess the risks** You register each trip in the space — a few fields, or the ticket confirmation e-mail forwarded to your space's address, which you confirm with one click. From there, the space writes the “travel abroad” section of your risk assessment, dated, and proposes a new version at every change. For each trip, it records and keeps, dated, today's level published by the French, Swiss, US and UK ministries. You decide once, in writing, up to which level trips are authorised — for example: normal and increased caution leave without you; above that, the space e-mails you and you authorise or refuse; each answer is recorded with its author and date. A country under sanctions never leaves without you. During the mission, it watches the country daily and e-mails you if the level changes. The note to present to the works council (from 11 employees) is pre-filled in the space.	Attach the proposed text to your risk register. Authorise or refuse the trips your rule does not cover. Decide in writing when a country changes level. Answer an employee who alerts you. Present the note to the works council and file the minutes.
2	**Plan who pays for care and repatriation** The policy (the VIP Pack) covers every registered employee, from technician to CEO: medical expenses up to USD 1.5 million, unlimited medical evacuation and repatriation, hospital paid directly by the insurer beyond 24 hours in hospital, one 24/7 number. Each receives their card and certificate; the space flags anyone leaving without cover.	Subscribe for those who travel, not the whole headcount: by naming the employees, or by taking, from five seats, an unnamed pack on which you then register whoever you want, with no new payment.
3	**Inform before departure** As soon as a trip is authorised, the employee receives their mission page by e-mail: the country's level, the instructions, what to do, the emergency number and a button to alert you. Their “I have read” is time-stamped; if they do not read it, they are reminded seven, three and one day before departure.	Add your own instructions if you have any: hotel, travel at night, whom to call.
4	**Settle the departure paperwork** For each destination, the space tells you which certificate to request and where — the Urssaf's ILASS online service in France, your AHV compensation office in Switzerland —, reminds you fourteen days before departure and keeps the copy. For a mission over four weeks, it pre-fills the mandatory written document, sends it to the employee and records the date they received it.	Request the certificate from the Urssaf or your AHV office, and file the copy in the space.
5	**Report the work accident** The employee calls the 24/7 number; you are told of their call, with no medical detail. If they are insured by name, their claim opens an accident file in your space, dated (with the pack, you file it with them); there you find the work-accident report already filled in and the deadline to send it, which the space reminds you of.	Report the accident to the CPAM or your accident insurer, and file the receipt in the space.
✓	**The proof** Every action is time-stamped, with its author's name: assessments, decisions, receipts, certificates, alerts and answers. The complete file downloads, readable without Maximum — after an accident, during an inspection, before leaving us.	File in the space what comes from outside: certificates, receipts, works council minutes. Inform your employees of the tool and, from 50 employees, present it to the works council before opening it.

USD 1.5M	**Unlimited**	**$0**	**$990**
emergency medical expenses	medical evacuation and repatriation	to advance beyond 24 h in hospital	per traveller per year, space included, unlimited trips

If the country becomes advised against during the mission, care, evacuation and medical repatriation remain covered, and the space warns you the same day. Bringing an employee home for security reasons — riots, war — remains your decision: that return falls under the crisis management of the VIP Extreme Pack, subject to eligibility. A war breaking out on site stays covered for fourteen days; countries already at war on departure remain excluded, as does whatever the insurer cannot provide without exposure to international sanctions. The benefits are those of the policy, to be read in its general conditions.

IN FIVE MINUTES, ONLINE

Subscribe as a company

Every employee covered, every proof dated in your space — named employees, or unnamed seats from five. Your space is accessible as soon as payment is made.
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