



# WORKING CONDITIC

BARIN  
BOARD OF AIRLINE REPRESENTATIVES IN THE NETHERLANDS

24 August 2023  
Jaouad Seghrouchni

 **DECLERCQ**  
Advocaten · Notariaat

# Programme

1. Background
2. Legal framework
3. (Legal) consequences
4. Recommendations





## Schiphol airport told to slash baggage handling firms to three

July 11, 2023



### Schiphol baggage handlers will be fined for not giving workers heavy lifting aids



## Labour inspectorate gets tough with baggage firms after 12 years

March 15, 2023

### Half of baggage handlers at risk of serious damage to health: NOS

September 6, 2022

### Baggage handling firms to face fine for not using lifting gear

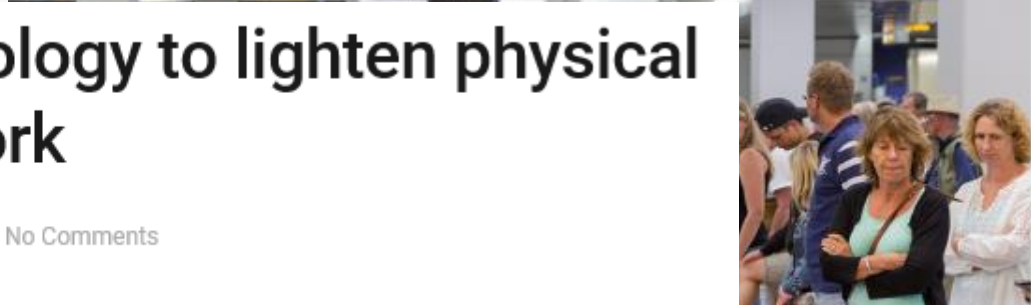
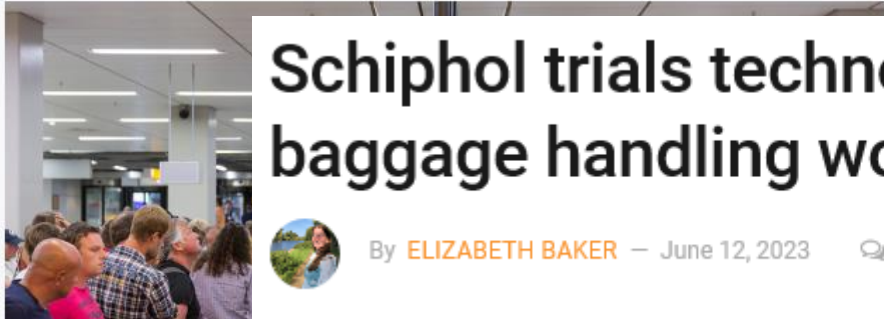
June 8, 2023



### Schiphol trials technology to lighten physical baggage handling work

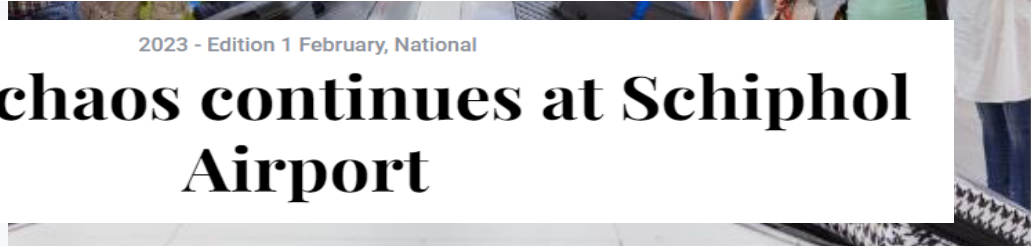


By ELIZABETH BAKER — June 12, 2023 No Comments



2023 - Edition 1 February, National

## Baggage chaos continues at Schiphol Airport



# 1. Background

- **Order of 14 March 2023** (*kennisgeving eis*) following inspections of the Netherlands Labour Authority (NLA) (*Nederlandse Arbeidsinspectie*):
  - Within 2 years, baggage handling must be automated/mechanized.
  - Within 6 months, employers must provide a plan on how they will achieve the required automation within the prescribed 2-year period.
  - Immediately and until the automation/mechanization of the baggage handling process is completed, baggage handling aids should be used.
  - Immediately, where baggage is loaded individually, the Rampsnake/Power stow, or a similar device must be used when loading/unloading the aircraft.
- **Proposed order subject to a penalty for non-compliance of 8 June 2023** (*last onder dwangsom*) up to EUR 65,000 a month, following inspections in April 2023



## 2. Legal Framework



- **General duty of care:** obligation to protect health and safety of employees (*zorgplicht*)
  - Further specified in different working conditions acts and regulations.
  - Liability employer for damages occurred during performance of the work.
- Employer and employees work together to improve working conditions. Risk inventory and evaluation (Working Conditions Act (*Arbeidsomstandighedenwet*))
- Rules regarding **physical strain** (Working Conditions Decree (*Arbeidsomstandighedenbesluit*))
- Detailed regulations different branches (Working Conditions Regulations (*Arbeidsomstandighedenregeling*))
- Regulations in CLA (collective labour agreement), employee handbook or employment agreement
- NIOSH method (ISO standard): Maximum lifting weight

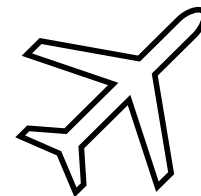
## 2. LEGAL FRAMEWORK



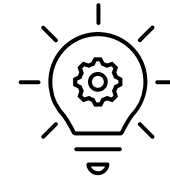
- **Enforcement:** the Netherlands Labour Authority (NLA) (*Nederlandse Arbeidsinspectie*)
  - Monitors compliance with legislation regarding working conditions.
- **Sanctions & enforcement:**
  - Warning, order, fine, verbal agreement, (warning of) preventive shutdown, official report.
  - Other measures: order subject to a penalty for non-compliance (*last onder dwangsom*) administrative enforcement order (*last onder bestuursdwang*).
- **Amount of the fine components:**
  - Standard amounts, company size, increase, recidivism, serious offence, proportionality (Policy Rules on the Imposition of Fines in Working Conditions Legislation (*Beleidsregel boeteoplegging arbeidsomstandighedenwetgeving*)).
- **Preventive shutdown:**
  - Weighing of interests: Social consequences, economic impact on third parties, nature and extend of violation (Policy Rules on preventive shutdown employment law (*Beleidsregel preventieve stillegging arbeidswetten*)).
  - In case of recurrency.
- **General principles of good governance**, such as principle of proportionality

### 3. (Legal) Consequences

- **Shutdown baggage handlers:** weighing of interests
- **Liability** arising from a **wrongful act?**
  - Benefiting from a breach of contract?
- **Duty of care:** liability towards other workers than employees?
- **Schiphol** more likely to be held liable?
  - Social standard
  - License to operate
  - From 6 to 3 baggage handlers
  - Baggage lift robots



## 4. Recommendations




- **Warranties and indemnities** in contracts with baggage handlers
  - In addition to **provisions** in contracts with baggage handlers regarding working conditions of employees
- **Open conversation** with baggage handlers regarding working conditions employees
- Schiphol should be in the lead





# QUESTIONS?



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