

Agreement on cooperation
concluded in The Hague on December 18th 2013

by and between

**THE INSPECTORATE OF SOCIAL AFFAIRS AND EMPLOYMENT
OF THE KINGDOM OF THE NETHERLANDS**

and

THE NATIONAL LABOUR INSPECTORATE IN THE REPUBLIC OF POLAND

The Inspectorate of Social Affairs and Employment of the Kingdom of the Netherlands and the National Labour Inspectorate in the Republic of Poland, hereinafter referred to as 'Parties',

recognizing that the European internal market, with its free movement of persons, goods and services, is of the utmost importance to our countries, and bearing in mind that further development of the single market in the territory of the Kingdom of the Netherlands and the Republic of Poland should follow the rules of fair competition between enterprises,

recognizing that implementation of aforementioned freedoms and rules must be done with respect to worker rights, taking notice of such negative phenomena as underpayment, exploitation, violation of Occupational Safety and Health (OSH) regulations, human trafficking for forced labour, noting the necessity to enhance the protection of the rights of posted workers in the territory of countries of the Parties,

confirming their obligation to enforce, for the benefit of workers, safe and healthy working conditions in an environment that is free of risks of occupational accidents and diseases,

taking into account the organisational differences between our countries, respecting the competences of both Parties, admitting that efficient cooperation should be based on, inter alia, continuous exchange of information between the Parties and commencement of active actions within the scope of both Parties' competence,

HAVE AGREED,



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Article 1

Preliminary issues

1. The Parties mutually agree that strengthening of international cooperation is indispensable; in order to achieve this, indication of competent bodies as well as setting the rules and forms of cooperation is crucial.
2. The Parties declare the will of establishing particularly active cooperation between Dutch and Polish labour inspection authorities in the field of inspection in compliance with the terms of international posting of workers in line with the provisions of *the 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*.
3. The Parties consider that establishment and development of cooperation in relation to posting with the mediation of temporary employment agencies operating in the countries of both Parties is of particular importance.
4. The Parties consider that fighting illegal practices that constitute violation of legal provisions concerning the posting of workers in line with the provisions of *the 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 a priority.
5. The Parties' will is to increase the protection of migrant workers from countries of the Parties against abuse by employers – in line with the competencies of both Parties.
6. This Agreement constitutes an expression of will of both Parties. In no case will the agent of a Party be expected to carry out measures at variance with the law or the administrative practice of that Party. In matters regulated by international standards that are to be implicitly complied with by the Parties, the standards shall prevail over the provisions of the Agreement.
7. This Agreement creates no rights or obligations under international law.
8. Any exchanged information and documentation shall be subject to binding provisions on the protection of personal information of the country of each Party, respecting national, community and international standards. Information and documents shall be exchanged in line with the national provisions of both countries of the Parties.

Article 2

The scope of cooperation

Cooperation shall cover:

- a) issues of international posting and hiring out of workers, in compliance with provisions on working conditions and employment of workers posted to the territory of both countries of the Parties, as well as offences related



- to labour law and occupational safety and health and illegal cross-border activities committed by the posting entrepreneurs;
- b) cases of joint combat against illegal practices aimed at circumventing the provisions provided for in the Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 on posting of workers in the framework of the provision of services that result in violation of worker rights;
 - c) matters related to temporary workers sent to work for clients in the territory of countries of the Parties on the basis of posting in the framework of cross-border provision of services;
 - d) matters related to violation of labour law provisions by employers entrusting work to citizens of the countries of the Parties on other basis than posting in the framework of provision of services – in the framework of the Parties' scope of competence.

Article 3

Forms of cooperation

Authorized bodies participating in the cooperation shall support each other in the framework of their own competence provided for in national legislation, particularly in relation to:

- a) carrying out inspections in compliance with the provisions of the *Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 on posting of workers in the framework of the provision of services* in the territory of countries of the Parties;
- b) exchange of information on cases of violations of labour law by employers engaging the citizens of the countries of the Parties, as well as complaints of the citizens of the countries of the Parties against foreign employers;
- c) development and implementation of communication and preventive activities, particularly by way of exchanging communication and educational materials related to the scope of Parties' competence addressed to posted workers, migrant workers and people interested in entering into employment in the territory of the country of either Party;
- d) exchange of information on the terms of employment with the mediation of employment agencies operating in the countries of the Parties. Moreover, the Inspectorate of Social Affairs and Employment of the Kingdom of the Netherlands commits itself to provide the other Party with information on certified employment agencies, as well as information on agencies that have lost their certificate. Such information shall be updated twice a year;
- e) exchange of information on the progress of actions commenced by one Party at the request of the other Party;



- f) informing each other *ex officio* or at a request about amendments to their national legislation that are related to matters covered by this Agreement, particularly related to the rules of employment in the territory of both countries and the terms of certification of entities providing services of employment agencies;
- g) exchange of available information on the structure, functions and competences of institutions authorized to inspect and supervise working conditions, their methodologies of inspection as well as contact persons in the countries of both Parties.

Article 4

Bodies competent for the implementation of the Agreement

1. The following bodies will participate in the exchange of administrative information referred to in this Agreement: the Inspectorate of Social Affairs and Employment of the Kingdom of the Netherlands and the National Labour Inspectorate in the Republic of Poland.
2. Cooperation shall be implemented via the agency of liaison offices acting as focal points in the scope of receiving and forwarding any kind of information exchanged between the Parties that refers to matters covered by this Agreement.
3. Each liaison office shall be responsible for the exchange of information with competent national institutions and authorities.

Article 5

Exchange of administrative information

1. Each of the Parties shall provide the other Party with any useful administrative information related to the posting of workers or referring to prohibited practices concerning enterprises or workers, in the scope indispensable for conducting an inspection, as well as other information related to detected cases of infringements of the labour law regarding workers of the countries of the Parties that perform work in the territory of the Kingdom of the Netherlands and the Republic of Poland.
2. The exchange of information shall particularly cover – in verifiable cases – the matters related to remuneration paid to workers during the posting period (gross and net amounts, each component of remuneration shall be indicated separately) as well as other work-related benefits due and paid to workers as well as expenses incurred by workers in result of their posting to work in the territory of the country of the Party (cost of accommodation, subsistence, transportation etc.).



3. Each of the Parties shall provide the other Party with information on the causes of possible delays in the course of processing that Party's request and, as far as possible, shall take into consideration the urgency of the matter.
4. Should the Party forwarded with a request for information not have the appropriate data, it shall forward the request to a competent authority and inform the requesting Party about that fact in writing.
5. In case a request cannot be processed, the requesting Party shall be informed about the fact and about the obstacles.
6. The platform for the exchange of information shall primarily be the Internal Market Information Exchange System (IMI) approved by the European Council on 8 March 2011, which enables the Member States to forward information and documents by electronic means in compliance with the established rules of cooperation between administrative institutions.
7. The exchange of information, particularly on violations of labour law regulations against citizens of the Republic of Poland and the Kingdom of the Netherlands performing work in the territory of the countries of the Parties on other basis than posting of workers may be done in a traditional manner, also with the use of existing forms.

Article 6

Use of supplied information

1. The Parties shall mutually inform each other about the ways in which the supplied information was used.
2. In case the Party receives information on possible violations of national or community regulations related to posting of workers or cases of illegal employment of workers in the meaning of national provisions of the country of the Party, it shall immediately inform the liaison office of the other Party to the Agreement about this fact.

Article 7

Assessment of Agreement implementation

1. Each of the Parties shall draw up a quantitative and qualitative report on the implementation of this Agreement and provide it to the other Party on annual basis, together with information about difficulties encountered in the course of implementation of the Agreement.
2. Amendment proposals aimed at prevention of difficulties may also be forwarded together with the report.



3. In any case when the Parties consider this advisable, but at least once every two years, the Parties shall organize a bilateral meeting devoted to presenting proposals of solutions to any problems encountered in the course of cooperation and to discussing possible proposals of amendments related to the terms and procedures of information exchange.
4. The meetings mentioned in point 3 may also be devoted to discussing other matters such as programmes of joint actions focused on prevention of illegal practices and infringements of labour law in matters covered by this Agreement.

Article 8

Expenses

1. Expenses arising from the implementation of the Agreement shall be covered as follows:
 - a. the cost of international travel and accommodation shall be covered by the visiting Party;
 - b. the rules concerning the financing of other costs of events shall be decided upon by both parties with regard to each individual initiative.
2. The Party's own expenses resulting from implementation of this Agreement shall be covered by each Party from available financial resources.

Article 9

Amendment, dissolution and termination of the Agreement

1. The Agreement is concluded for an indefinite period of time.
2. The Agreement may be amended by means of an annex to the Agreement or dissolved upon the consent of each Party and at the time agreed upon by the Parties.
3. Any amendment to the Agreement shall be made in writing.
4. The Agreement may be terminated by each of the Parties. The Agreement shall expire upon the receipt of a statement on the termination by the other Party.



Article 10

Final provisions

1. This Agreement was drawn up in two identical copies, one for each Party, in the following languages: Polish, Dutch and English with all the texts being genuinely identical. In case of any discrepancies the English text shall be considered as prevailing.
2. The Agreement shall enter into force on the date of its signing.
3. The validity of the Agreement concluded on 9 November 2006 between the National Labour Inspectorate in Poland and the Labour Inspectorate in the Netherlands concerning cooperation and mutual exchange of information shall expire.

on behalf of

the National Labour Inspectorate
in the Republic of Poland


Chief Labour Inspector
Iwona Hickiewicz

on behalf of

the Inspectorate of Social Affairs
and Employment
in the Kingdom of the Netherlands


Inspector-General
Jan van den Bos