

## **A good practice of using IMI. Practical case of State Labour Inspectorate of the Republic of Lithuania**

**Ministry of Social Security and Labour and the State Labour Inspectorate under the Ministry of Social Security and Labour**

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### **1. Background**

The State Labour Inspectorate of the Republic of Lithuania (hereinafter – SLI) is a liaison office implementing 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.

Implementing the Directive, SLI uses the Internal Market Information (hereinafter – IMI) system which is an important instrument to receive proper information from the authorities of host countries.

### **2. Overview**

The task of State Border Guard Service is to guard the State border on land and in the sea. In this case, officials of State Border Guard service patrolled in the territory of seaport.

During the inspection of a Lithuanian company, inspectors of the State Border Guard Service detected 4 Ukrainian citizens at the workplace. All of them as well as the employer of the company did not have temporary work permits. The temporary work permit is a mandatory document for non EU citizens wishing to work in the Republic of Lithuania.

According to the Lithuanian Labour Code, a third-country worker without work permit, even if he has permission to stay in the country performs illegal work. In that case, Ukrainian citizens declared their work legitimacy by presenting labour contracts concluded with an Estonian company.

The manager of the Lithuanian company explained that all third country citizens had valid permits issued by Estonian authorities and were legally posted for a temporary work to the Republic of Lithuania.

Furthermore, Ukrainian citizens declared that they were legally employed in a Ukrainian enterprise and were posted to the Republic of Estonia.

Having doubts about legality of Ukrainians' work, State Border Guard Service forwarded the relevant documents to SLI.

### **3. Exchange of information**

In order to investigate the legality of foreign workers, labour inspectors had no legal means to check proper documents without the assistance of relevant foreign authorities. As Lithuanian authorities were not sure the documents collected complied with the Estonian regulations (Estonian labour contracts), SLI applied to Estonian authorities for the provision of information about legality of Estonian labour contracts through the Internal Market System.

Estonian authorities sent a reply via IMI stating that all above mentioned third country nationals were not employees of the Estonian company nor they had been issued E-101 form (Estonian company was indeed a subcontractor of the Lithuanian company, however third country citizens weren't employed in that company).

### **4. Follow-up action**

Having obtained this information, SLI issued a protocol of administrative law violations and handed over to the court according to the provisions of the article on illegal work of the Administrative Offences Code.

This case was examined in 2 instances of courts and the Higher Court recognized the work of Ukrainian citizens in the Lithuanian enterprise as an illegal work. The head of Lithuanian company was fined 12000 Litas (3500 Euros).