

## **The National Labour Inspectorate's related to exchanging information on the terms of employment of posted employees – overview – practical case (Poland)**

### **National Labour Inspection**

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[www.pip.gov.pl](http://www.pip.gov.pl)

The liaison office for posting of workers is the Chief Labour Inspectorate in Warsaw, 38/42 Krucza St.

The liaison office for social insurance of posted workers is the Social Insurance Institution

(Zakład Ubezpieczeń Społecznych) in Warsaw, 3-5-7 Szamocka St.

### **1. The role of National Labour Inspectorate**

The National Labour Inspection (PIP) is a body appointed to exercise supervision and control of respecting the **labour law**, especially the **occupational health and safety** regulations and regulations of **legality of employment and other gainful work**.

#### **Statutory tasks :**

- supervision and control of respecting the labour law, especially the occupational health and safety regulations
- control of employment legality
- prevention, promotion and consultancy
- other tasks (including cooperation with authorities supervising working conditions and international cooperation)

Website: [www.pip.gov.pl](http://www.pip.gov.pl)

### **2. PIP as a liaison office**

National Labour Inspectorate is obliged to cooperate with liaison offices of European Union and European Economic Area member countries responsible for supervising working and employment conditions.

Therefore, our inspectorate:

- provides information on specific cases of workers posted by Polish employers to other EU/EEA countries, including information about these employers, the posted workers and their employment conditions,
- informs about confirmed offences against labour rights of workers posted to work in Polish territory by an employer from another EU/EEA country,
- points out relevant supervisory authorities controlling the job market that can provide requested information.

Moreover, in response to a written request of the person concerned, **PIP provides information about so-called minimal employment conditions**, according to Polish regulations, that should be provided to workers posted to our country.

### **Statistics of the IMI System (June 2013)**

Since 16th May 2011:

- PIP has been providing information about posting as a part of service providing through the Internal Market Information System (IMI).
- Exchange of correspondence is in the following languages: English, German, French, Spanish, Italian.
- 4 weeks for providing answers (standards of cooperation) (managed by Chief Labour Inspectorate and District Labour Inspectorates)
- According to the EU information Poland is the addressee of the biggest number of requests for information about posting (164 - on 31st December 2012).
- The cooperation within the IMI System has involved **228 cases** including 7 cases referred by PIP to the Labour Inspection in Austria, Belgium, Estonia, Finland, Romania. The relevant authorities from 12 countries have referred cases to Polish Labour Inspection through the IMI system. There have been 221 requests:  
**France 93 cases, Belgium 92 cases, Austria 11 cases,**  
Finland 4 cases, Italy 4 cases, Estonia 4 cases,  
Germany 3 cases, Denmark 2 cases, Norway 3 cases,  
Slovakia 1 case, Holland 3 cases, Luxembourg 1 case.

In 2011, the highest number of cases was referred to the Chief of Labour Inspection by liaison offices from the following countries: Belgium - 66 (55,5%), France - 24 (20,2%), Netherlands - 11 (9,2%), Finland - 4 (3,4%), Italy -3 (2,5%), Austria -3 (2,5%).

The number of cases referred to PIP by liaison offices from other countries from January to December 2012 was: France -54 (41%), Belgium -51 (39%), Germany-8 (6%), Austria - 7 (5%), Netherlands - 6 (5%), other countries-6 (5%).

#### **Other data**

- In 2011, PIP referred 63 complaints of Polish workers to liaison offices in other EU member countries. The complaints included :
  - o 29 complaints of workers posted as a part of service providing,
  - o 24 complaints of workers who started working for foreign employers (mainly through Polish employment agencies).
- The range of posting polish workers to EU/EEA countries according to E101/A1 forms:
  - o issued from January to December 2011 in total : 227.930 to Germany : 125.804
  - o issued from January to December 2010 in total : 265.605 to Germany : 113.615  
(Data of Zakład Ubezpieczeń Społecznych (ZUS) – Social Insurance Institution)
- Number of complaints concerning posted workers in 2011: Finland 1, Sweden 1, Denmark 1, Czech Republic 2, Belgium 5, France 6, Netherlands 8, Germany 16.

### **3. Cooperation with the EU Member States**

The most **common questions** directed to the National Labour Inspection are :

- confirming the existence of the employment relationship between the employer and posted workers,
- conducting legal business activity by the employer in Polish territory, the sector of the employer business activity,
- conducting significant business activity of the employer in the posting country territory,
- the confirmation of the entry in the court register or in the Business Activity Central Register and Information Records/business activity register, information about the management staff of the company,
- does the employer really conduct business activity, the date of setting up the company,- the places and times of workers posting,
- does the company provide temporary work services, and if so has it been recorded in the register of operators running employment agencies?
- questions about conditions of workers employment, including systems and norms of working time, leave entitlement, declared and paid salary, benefits paid for the posting.

## **4. Feed Back**

### **4.1 The main difficulties encountered**

#### **- Problems related to exchange of information**

lengthy proceeding,

low effectiveness of activities undertaken by both cooperating inspectorates from the point of view workers lodging complaints,

reply from a foreign liaison office only to some issues raised in complaints, and without specifying authorities competent in other issues that exceed the competence of the liaison office.

#### **- Problems related to control – Posting to Poland**

##### **o Problems with findings making**

In Poland, lack of the person entitled to represent a posting employer before control bodies (Polish regulations don't impose the obligation of appointing such a representative on employers from EU/EEA countries),

Lack of legal possibility of inviting a representative of the posting company from abroad (Code of administrative proceedings, art. 51 and the following),

Lack of documents necessary to make findings.

A long time of waiting for information provided as a part of liaison offices cooperation

##### **o Difficulties in imposing penalties for offenses**

Absence of the person responsible for the offense in Poland

##### **o Doubts about possibilities of recognising certificates on OSH training and medical examinations carried out in a posting country**

### **4.2 Guidance that will contribute to efficient and fruitful cooperation**

- Taking account of the fact that NLI may be unable to send extensive worker-related documentation
- Conducting an inspection as requested, focusing especially on employees whose data were sent by NLI
- As far as possible, providing data that will facilitate unambiguous identification of a company
- Eliminating lengthy proceedings
- Providing comprehensive and full replies to questions included in letters addressed to liaison offices, and if any issues raised in requests fall beyond the competence of a liaison office, specifying the competent authorities

- Using information contained in:
    - o **Business Activity Central Register and Information Record - Centralna Ewidencja i Informacja o Działalności Gospodarczej RP**  
<https://prod.ceidg.gov.pl/CEIDG/CEIDG.Public.UI/Search.aspx>
- and
- o **National Court Register - Krajowy Rejestr Sądowy**  
<https://ems.ms.gov.pl/krs/wyszukiwaniepodmiotu>
- before sending request for information

The authority competent: to provide information on social security, to confirm whether an employer conducts significant activity, and to inform on the company's turnover, is **ZUS**:

**Social Insurance Institution**

(Zakład Ubezpieczeń Społecznych)

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