

Lithuania

I. Legal notice – disclaimer

This sheet aims to provide a general overview of the main substantive rules concerning the terms and conditions of employment to be met by legislation transposing Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (OJ L 18 of 21.1.1997). By its very nature, such a sheet can only summarise and does not necessarily contain all the relevant information in this context. In no way can it replace legislative, regulatory or administrative texts, or applicable collective agreements. The information below has been provided by the authorities of the Member States, which have made every effort to ensure its accuracy. Neither the Commission nor the Member States concerned can, however, guarantee that the information provided is always precise, complete, accurate and up to date. Furthermore, publication on the portal of the European Commission does not imply in any way that the latter or its DGs and Services consider the rules presented in this way to be in conformity with Community law.

II. Instrument transposing Directive 96/71/EC

Law of the Republic of Lithuania on Law on Guarantees for Posted Workers approved by the Parliament of the Republic of Lithuania on 12 May 2005 (No X-199).

Official publication: Official Gazette, 2005, No 67-2406.

Internet link: www.lrs.lt.

Order No A1-169 of 16 June 2005 of the Minister of Social Security and Labour on approval of the procedure for information on posted workers.

Official publication: Official Gazette, 2005, No 77-2801.

Internet link: www.lrs.lt.

III. Information on legislation applicable in accordance with the Directive

Information on legislation applicable to undertakings which, for a limited period of time, post workers to the territory of another Member State can be obtained at the following address:

Senior Labour Inspector of Legal Division

Aras Petrevičius

State Labour Inspectorate

Algirdo 19

03607 Vilnius-06

Tel.: +37052650193; +370 5 2139768

Fax: 37052139751

e-mail: info@vdi.lt

aras.petrevicius@vdi.lt

Internet: www.vdi.lt

All the legal acts mentioned can be found on the Internet (address: www.lrs.lt) as well.

IV. Failure to comply with the prescribed terms and conditions of employment

Cases of failure to comply with the prescribed terms and conditions of employment in Lithuania and possible cases of illegal transnational activities can be reported to the following address: see point III above (same authority).

V. Situations constituting a posting [Article 1 of the Directive]

The relevant provisions of the Labour Code apply to undertakings which take one of the transnational measures mentioned in Article 1 of Directive 96/71EC.

The law does not apply to the crews of trade vessels.

VI. Posted workers [Article 2 of the Directive]

Directive 96/71/EC applies to workers who, for a limited period of time, carry out their work on the territory of a Member State other than the State in which they normally work.

In Lithuania “posted worker” is defined as an employee who normally works on the territory of the Republic of Lithuania, but is posted temporarily to another Member State. “Worker” is defined as a natural person possessing legal capacity in labour relations under Article 13 of the Labour Code, employed under an employment contract for remuneration. Article 13 states that “a person shall acquire full legal capacity in labour relations and ability to acquire labour rights and undertake labour duties when he reaches the age of 16 years” (paragraph 2). The same Code and other labour laws establish the cases exempted. The foregoing applies to any posted worker, irrespective of that person's designation in the country of origin.

Under the case law of the Court of Justice of the European Communities, the temporary nature of an activity carried out on the territory of a Member State in the context of free provision of services cannot be determined abstractly but should be judged on a case-by-case basis, depending on the duration, frequency or continuity.

If an occupational activity in Lithuania can no longer be considered as being exercised temporarily, taking account of the abovementioned criteria, but is stable and continuous, *all* the binding rules and regulations in force in Lithuania apply.

VII. Work periods and rest periods [Article 3(1)(a) of the Directive]

Article 144 of the Labour Code states that working time may not exceed 40 hours per week. Daily working time must not exceed 8 working hours. Laws, Government resolutions and collective agreements may establish exceptions (but only shorter working time). On the other hand, for employees employed under two or more employment contracts, the daily working time (including rest and meal breaks) may not be longer than 12 hours. However, maximum working time, including overtime, must not exceed 48 hours per 7 working days, even if summary recording is used, in which case the average maximum working week may not exceed 48 hours.

The following rest periods are also established in the Labour Code: 1) a rest and meal break; 2) additional and special rest breaks during the working day (shift); 3) an uninterrupted daily rest period between working days (shifts); 4) an uninterrupted weekly rest period; and 5) an annual rest period (public holidays plus annual leave).

VIII. Paid annual holidays [Article 3(1)(b) of the Directive]

Article 165 of the Code states that annual leave is a period calculated in calendar days granted to an employee for rest and rehabilitation of working capacity, during which the employee's job/position and average wage are retained. The holidays indicated in Article 162 of the Code are not included in the period of annual leave. Annual leave may be minimum, extended and additional. The minimum annual leave is 28 calendar days. Longer annual leave totalling 35 calendar days must be granted to: 1) employees under 18 years of age; 2) employees who, as single parents, are raising a child under the age of 14 or a disabled child under the age of 18; 3) disabled persons; 4) other persons provided for by law. Annual leave may not be shortened for part-time employees.

IX. Pay [Article 3(1)(c) of the Directive]

Article 187 of the Labour Code lays down that the hourly pay or the monthly wage of an employee may not be less than the minimum rates established by the Government, on the recommendation of the Tripartite Council. On the recommendation of the Tripartite Council, the Government may establish different minimum rates of hourly pay and the minimum monthly wage for different sectors of the economy, regions or categories of employees. Collective and labour agreements may establish only higher minimum wage rates. Article 193 of the Code states that remuneration for overtime work must be at least one and a half times the hourly pay (or monthly wages) established for the employee.

Under Government resolution No 972 of 24 September 2014 the minimum hourly wage since 1 January 2015 is 1.82 € and the minimum monthly wage 300€. These minimum wages are expected to increase.

X. Rules concerning hiring-out of workers and terms and conditions which apply to temporary workers [Article 3(1)(d) of the Directive]

Apart from the necessary conditions of contract of employment laid down by the Labour Code, according to the Law on Temporary Agency Work, approved by the Parliament of the Republic of Lithuania on 19 May 2011, a contract of temporary employment must provide for the following necessary conditions of contract of employment:

- 1) the procedure of call and assignment of temporary worker to work for the user undertaking and withdrawal from the work for the user undertaking;
- 2) the procedure of notification about the start and end of work for the user undertaking;
- 3) the amount of pay and procedure of payment for the time periods between assignments to work for the user undertaking. The pay of a temporary worker during the time of work for the user undertaking must be such as it would be if the temporary worker was hired directly by the user undertaking, except for the cases when temporary workers having signed contracts of employment of indefinite time period receive equal pay between the assignments and during the assignments;
- 4) work time regimen of a temporary worker.

During the period between the assignments a worker has the right to terminate the contract of temporary employment by notifying the employment agency no later than before 7 days. A different time period for notification may be stipulated by the collective agreement between the employment agency and its employees, but not exceeding one month.

It is prohibited for the employment agency:

- 1) to restrict the possibilities of permanent employment of temporary workers in the user undertaking;

2) to demand from a temporary worker to compensate or cover any costs of conclusion, fulfilment or termination of contract of temporary employment;

3) to manage the data of temporary workers for the purposes other than related to the obligations under the contract of temporary employment, their qualification, work experience or other relevant information, or violating their right to privacy;

4) to manage the data obtained from user undertaking for the purposes other than related to the obligations under the contract of temporary employment, or violating the interests of user undertaking.

XI. Health, safety and hygiene at work [Article 3(1)(e) of the Directive]

The Labour Code (Law on Health and Safety at Work) entered into force on 1 July 2003 (Official Gazette 70-3170), and other related legal acts will apply to the health, safety and hygiene at work requirements for posted workers.

The main provisions on safety and health at work are laid down in the Labour Code.¹ Chapter XVIII of Part III of the Labour Code defines safety and health at work, specifies the main duties of employers and employees and sets out provisions on the design of workstations and the use of work equipment, on the health care of employees and the management, assessment and control of safety and health at work.

To implement the Labour Code, the following legislation has been approved:

- The Law on Safety and Health at Work²

The Law on Safety and Health at Work consists of four parts: General Provisions; Guarantees of Safety and Health at Work for Specific Groups of Workers; Assessment of Safety and Health at Work. Main Provisions regarding Reports on Accidents at Work and Occupational Diseases, and on Investigation thereof; and Liability for Violations of the Requirements of Regulations on Safety and Health at Work. This Law lays down general legal provisions and requirements in order to protect workers against occupational risks or to reduce such risks; general provisions on occupational risk assessment, the procedure for investigation of accidents at work and occupational diseases; requirements on safety and health at work applicable to young workers, pregnant workers and workers who have recently given birth or are breastfeeding and persons with limited functional capacity; public administration of safety and health at work and the powers of State institutions; the rights and obligations of employers, representatives of employers and workers in order to ensure safe and healthy working conditions and the rights of representatives of workers with a view to ensuring safe and healthy working conditions for workers; and general principles concerning responsibility for any violation of legislation on safety and health at work.

The Law stipulates that “safe and healthy working conditions shall be ensured for every worker regardless of the nature of business of an undertaking, the type of employment contract, number of workers, profitability of the undertaking, workstation, working environment, work type, the duration of the working day (shift), the worker’s citizenship, race, nationality, sex, sexual orientation, age, social background, political views or religious beliefs.” The duty of the employer is to ensure safety and health of workers at work in all aspects related to work. All measures concerning safety and health at work must be financed by the employer himself.

¹ 04-06-2002 No IX-926 (Official Gazette, 2002, No 64-2569; 2005, No 85-3138)

² 01-07-2003 No IX-1672 (Official Gazette, 2003, No 70-3170)

- **The Procedure for Compulsory Checks of the Employer's or Authorised Person's Knowledge of Safety and Health at Work**³ provides for compulsory checks on the employer's or authorised person's knowledge of safety and health at work.

- **The List of Employers Exempted from the Check (Assessment) of the Knowledge of Safety and Health at Work**⁴ specifies employers and persons representing or authorised by them, whose knowledge of safety and health at work is not subject to compulsory checks before operation of the enterprise or provision of services and later when operating the enterprise or providing services.

- The **Requirements for the Provision of Household, Sanitary and Hygiene Facilities**⁵ regulate the provision of household, sanitary and hygiene facilities (rest and changing facilities or rooms, rooms or places to store clothes, footwear and personal safety equipment, sanitary facilities, washbasins, showers, toilets and hygiene facilities) for personal hygiene, physiological needs, rest and health care of employees in enterprises' buildings or premises in operation, under construction and being equipped.

XII. Rules concerning terms and conditions of employment of pregnant women and women who have recently given birth [Article 3(1)(f) of the Directive]

The following protective measures are guaranteed to the abovementioned groups of employees under Lithuania's national labour legislation:

1. Termination of employment contracts

An employment contract with a pregnant woman may not be terminated from the day on which her employer receives a medical certificate confirming pregnancy until another month after maternity leave (Article 132 of the Labour Code), except when:

a) an employment contract must be terminated without notice:

- upon an effective court decision, or when a court judgment imposing a sentence which prevents an employee from continuing work becomes effective;
- an employee is deprived of special rights to perform certain work in accordance with the procedure prescribed by law;
- on the demand of bodies or officials authorised by law;
- an employee is unable to fulfil his or her obligations or perform work in the opinion of the medical commission or the commission for the establishment of disability;
- an employee under 16 years of age, one of the child's parents or the child's statutory representative, attending paediatrician or school demand that the employment contract be terminated;
- upon the liquidation of an employer, if by law his labour obligations were not transferred to another person;

³ 21-03-2007 Resolution No 292 of the Government of the Republic of Lithuania (Official Gazette, 2007 No 37-1365)

⁴ 21-03-2007 Resolution No 292 of the Government of the Republic of Lithuania (Official Gazette, 2007 No 37-1365)

⁵ 24-04-2003 Resolution No 501 of the Government of the Republic of Lithuania (Official Gazette, 2003 No 40-1820)

b) an employment contract expires upon the death of an employer if the contract was concluded for the supply of services to the employer personally and when the employer has no legal successor.

Moreover, employment contracts with employees raising a child (children) under three years of age may not be terminated without any fault on the part of the employee concerned (Article 132, paragraph 2 of the Labour Code).

2. Health and safety at work

Article 278 of the Labour Code states that:

a) Pregnant women, women who have recently given birth or breastfeeding women may not be assigned to perform work in conditions that may be hazardous and affect the health of the woman or the child. The list of harmful conditions and hazards prohibited for them is approved by the Government.

b) In compliance with the list of harmful working conditions and the results of the working environment risk assessment, the employer must establish the nature and duration of any potential effect on the safety and health of women who have recently given birth and of breastfeeding women. Upon assessment of the potential effect, the employer must take the necessary measures to ensure that the risk is eliminated.

c) Where it is impossible to eliminate hazards, the employer must implement measures to adjust the working conditions so that exposure of pregnant women, women who have recently given birth or breastfeeding women to risks is avoided. If after changing a woman's working conditions it is not possible to avoid exposing her to risks, the employer must transfer the woman (with her consent) to another job (workstation) in the enterprise, institution or organisation.

d) Having been transferred to another job (workstation) in the enterprise, institution or organisation, the pregnant woman, woman who has recently given birth or breastfeeding woman must be paid not less than the average wage she received before being transferred to another job (workstation).

e) If it is not technically feasible to transfer a pregnant woman to another job (workstation) where exposure of her and the child she is expecting to risks could be avoided, the pregnant woman must, with her consent, be granted leave until she goes on maternity leave and, during this period of extra leave, must be paid her average monthly wage.

f) If it is not technically feasible to transfer a woman who has recently given birth or, after her maternity leave, a breastfeeding woman to another job (workstation), where exposure of her or her child to risks could be avoided, the woman must, with her consent, be granted unpaid parental leave until her child is one year old and, for this period, must be paid the maternity social insurance benefits prescribed by law.

g) Where a pregnant woman, a woman who has recently given birth or a breastfeeding woman has to attend medical examinations, she must be released from work for such examinations without any loss in her average wage, if such examinations have to take place during working hours.

h) In addition to the general rest and meal break, breastfeeding women must be given at least one 30-minute break every three hours to breastfeed. At the mother's request the breaks for breastfeeding may be joined or added to the rest and meal break or taken at the end of the working day, shortening the working day accordingly. Payment for these breaks to breastfeed must be calculated in accordance with the average wage of the employee.

i) Pregnant women, women who have recently given birth or breastfeeding women may not be assigned to work overtime without their consent.

j) Pregnant women, women who have recently given birth or breastfeeding women may be assigned to work at night, on days off or on holidays, or be sent on business trips only with their consent. If such employees refuse to work at night and submit a certificate that such work would affect their safety and health, they must be transferred to day-time work. Where it is not possible to transfer such employees to day-time work for objective reasons, they must be granted leave until they go on maternity leave or child-care leave until the child is one year old. During the period of leave granted before the employee goes on maternity leave she must be paid her average monthly wage.

3. Working time and rest periods

a) Under Article 145, paragraph 1, point 1 shorter working time must be set for persons under 18 years of age in accordance with the Law on Labour Protection.

b) Under Article 146, paragraph 1 part-time working days or weeks must be set on request:
- by a pregnant woman, a woman who has recently given birth (mother who submits to her employer a certificate from a health care institution confirming that she has given birth and is raising a child until it reaches one year of age), a woman who breastfeeds (mother who submits to the employer a certificate from a health care institution confirming that she is raising and breastfeeding her child until it reaches one year of age), an employee raising a child until it reaches three years of age, and a single parent who is raising a child until it reaches the age of 14 or a child with disabilities until it reaches the age of 18;
- by an employee under 18 years of age.

c) Under Article 147, paragraph 5 wherever possible employees raising children under 14 years of age have the prior right to choose their shift.

d) Under Article 150, paragraph 3 overtime work may not be assigned to persons under 18 years of age. Paragraph 4 of the same Article adds that pregnant women, women who have recently given birth, women who are breastfeeding, employees who are raising a child under three years of age or who are raising on their own a child under 14 years of age or a disabled child under 18 years of age may be assigned to do overtime work only with their consent.

e) Article 154 of the Code prohibits working at night for persons under 18 years of age. Pregnant women, women who have recently given birth, women who are breastfeeding, employees who are raising a child under three years of age on their own and employees who are raising, as single parents, a child under 14 years of age or a child with disabilities under 18 years of age may be assigned to night work only with their consent.

f) Persons under 18 years of age may not be appointed to be on duty at the undertaking or at home. Pregnant women, women who have recently given birth and breastfeeding women, employees raising on their own a child under three years of age, employees raising a child under 14 years of age or a disabled child under 18 years of age on their own, persons taking care of a disabled person, and disabled persons, if not restricted by a commission establishing the disability, may be appointed to be on duty at the enterprise or at home only with their consent (Article 155 of the Labour Code).

g) Employees under 18 years of age who work for more than four hours must be granted an additional break of at least 30 minutes to rest during their working time. This break must be included in their working time (Article 159, paragraph 2 of the Labour Code). The duration of daily uninterrupted rest granted to employees under 18 years of age must be at least 14 hours, and to persons from 16 to 18 years of age at least 12 hours and must fall between 22.00 hours and 06.00 hours.

h) Pregnant women, women who have recently given birth, breastfeeding women, employees raising, as single parents, a child until it reaches the age of three, and employees raising a child before it reaches the age of 14 or a child with disabilities before it reaches the age of 18, and persons under 18 may be assigned work on rest days and holidays only with their consent. Persons under 18 years of age must be granted at least two rest days per week (Article 161, paragraph 6 and Article 162, paragraph 2 of the Code).

i) Under Article 166 of the Labour Code persons under 18 years of age and employees who, as a single parent, are raising a child before it reaches the age of 14 or a disabled child before it reaches the age of 18 are granted minimum annual leave of 35 calendar days.

j) Under Article 169, paragraph 3 before or after maternity leave, at their request, women must be granted annual leave even if they have worked uninterrupted for less than six months at an enterprise (other employees have this right only after six months of uninterrupted work). Moreover, pregnant women, employees raising, as a single parent, a child before it reaches the age of 14 or a child with disabilities before it reaches the age of 18 and employees under 18 years of age may choose the time of their annual leave (paragraph 4 of the same Article).

4. Article 184 of the Labour Code states that employers must provide unpaid leave at the employee's request:

- to employees raising a child under 14 years of age (up to 14 calendar days);
- to employees raising a child with disabilities under 16 years of age (up to 30 calendar days);
- *during maternity leave and parental care to the father at his request (to the mother - during parental care); the aggregate duration of such leave may not be longer than three months.*

XIII. Rules concerning terms and conditions of employment of children and young people [Article 3(1)(f) of the Directive]

See answer to question XII.

XIV. Equality and non-discrimination [Article 3(1)(g) of the Directive]

Article 2 of the Labour Code states that all parties subject to labour law are equal, irrespective of their gender, sexual orientation, race, nationality, language, origin,

citizenship and social status, religion, intention to have children, marital and family status, age, convictions or opinions, membership of a political party or public organisation and factors unrelated to the employee's professional qualities. This rule applies to all employees, including posted employees.

**XV. Terms and conditions of employment concerning other matters
[Article 3(10) of the Directive]**

Lithuanian legislation contains no terms and conditions of employment concerning other matters, as provided for in this Article of the Directive.

XVI. Procedural and administrative requirements

Order No A1-169 of 16 June 2005 of the Minister of Social Security and Labour on approval of the procedure for information on posted workers (Official Gazette 2005, No 77-2801) establishes the procedure for submission of information on employees posted to Lithuania to the regional divisions of the State Labour Inspectorate under the Ministry of Social Security and Labour. This Order requires employers sending an employee from a Member State or from any other State to work temporarily on the territory of the Republic of Lithuania for a period longer than 30 days or to carry out construction works specified in the Law on Construction of the Republic of Lithuania (Official Gazette, 1996, No 32-788; 2001, No 101-3597) to submit the notification in Lithuanian in the form established in paragraph 1 of Article 4 of the Law on Guarantees to Posted Workers to the division of the State Labour Inspectorate for the region where the employee sent on a business trip is working. If an employee is posted to work temporarily in several enterprises owned by natural or legal persons, each natural or legal person accepting an employee sent on a business trip must be indicated in the notification.

The notification must be submitted by post or by fax not later than five days before the employee sent on a business trip starts work on the territory of the Republic of Lithuania. In special cases not planned in advance (for example, if an employee is sent to carry out immediate repairs and restoration work on mechanisms or equipment in cases where their failure would force a large number of employees to stop work or where materials might deteriorate or equipment might break down, etc.) the notification must be submitted on the first working day of the employee sent to work on the territory of the Republic of Lithuania.

If, following submission of the notification, paragraph 1 of Article 4 of the Law applicable to employees sent on a business trip is revised and/or the length of or other conditions applicable to business trips are changed, the employer must immediately submit a revised notification in accordance with the established procedure. If an employee refuses to go on a business trip, the employer shall immediately inform, in whatever manner he/she considers appropriate, the division of the State Labour Inspectorate for the region where the employee sent on a business trip is working.

The regional divisions of the State Labour Inspectorate register all notifications. The State Labour Inspectorate exchanges information on employees sent on business trips with the State Social Insurance Fund Board under the Ministry of Social Security and Labour and with the Lithuanian Labour Exchange under the Ministry of Social Security and Labour in accordance with the conditions and the procedure established in agreements on the exchange of such information.

Persons who fail to fulfil the obligation to provide information will be held liable, as provided for by the laws of the Republic of Lithuania.

XVII. Mediation mechanisms in case of conflict

The Labour Code establishes procedures for settling individual and collective disputes, including various mediation mechanisms (Articles 68-75 and 285-303).

In the case of individual conflicts, the Labour Disputes Commission is the mandatory primary body for settling disputes. However, the following disputes are heard directly in Court without applying to the Labour Disputes Commission (new provisions of Chapter XIX entered into force on 1 January 2013):

- 1) appeals against the decisions of the Labour Disputes Commission;
- 2) employee's suspension from work at the request of the employer;
- 3) employee's suspension from work at the request of officials who are entitled to suspend from work;
- 4) lawfulness of the employee's dismissal;
- 5) in other cases prescribed by law.

The bodies hearing collective labour disputes (Article 71 of the Labour Code) are the:

- 1) Conciliation Commission;
- 2) Labour Arbitration;
- 3) At the request of one of the parties must be heard through a mediator.

Hearing by the Conciliation Commission is a mandatory stage in settlement of collective disputes. This Commission is made up of an equal number of authorised representatives of the entities who made the demands and those to which they were made. The number of Commission members is agreed between the parties. The Commission must be formed within seven days from the date of refusal to meet the demands by the entity to which they were made or if no response was received after the same period.

XVIII. Information on judicial enforcement procedures

Information on possible judicial remedies in Lithuania can be obtained from the following address:

Ministry of Justice
Gedimino av.30/1
LT-01104 Vilnius
Lithuania
Tel.: +370 5 266 29 80
www.tm.lt

National Courts Administration
Sapiegos av. 15
LT-10312 Vilnius
Lithuania
Tel.: +370 5 268 51 86
www.teismai.lt