

AGREEMENT
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA
AND
THE CABINET OF MINISTERS OF UKRAINE
ON EMPLOYMENT AND COOPERATION IN THE FIELD OF LABOUR
MIGRATION

The Government of the Republic of Lithuania and the Cabinet of Ministers of Ukraine (hereinafter jointly referred to as the Parties and each individually as the Party),

taking into account the Association Agreement between the European Union, the European Atomic Energy Community, their Member States of the one part and Ukraine of the other part,

taking into consideration the mutual desire to strengthen and develop cooperation in ensuring the protection of the rights and interests of employees from the States of the Parties and combating illegal work,

have agreed as follows:

CHAPTER I
GENERAL PROVISIONS

Article 1

Purpose of the Agreement

The Parties shall seek to strengthen mutual cooperation and provide mutual assistance in ensuring the protection of the rights and interests of employees from the States of the Parties and combating illegal work.

Article 2

Definitions

For the purpose of this Agreement:

1) **employer** shall mean a person in favour of and subject to whom under an employment contract a natural person has a duty to perform a job in return for payment;

2) **employee** shall mean a citizen of the State of the Party, as defined by the legislation of the State of the Party, who is obliged under an employment contract concluded with the employer to perform a job in return for payment in the territory of the State of the other Party;

3) **posted employee** shall mean a citizen of the State of the Party, as defined by the legislation of the State of the Party, employed in that state and sent by his or her employer on a temporary basis to carry out work in the territory of the State of the other Party. This definition shall also cover citizens of the European Union legally residing in the territory of the Republic of Lithuania who are employed in the Republic of Lithuania and sent by his or her employer on a temporary basis to carry out work in Ukraine, unless otherwise provided in the bilateral agreement between Ukraine and Member State of origin of the mentioned citizens of the European Union;

4) **competent authority** shall mean an authority authorised to determine the procedure for the application of this Agreement in the territory of the State of the Party concerned:

– in the Republic of Lithuania such task shall be delegated to the Ministry of Social Security and Labour of the Republic of Lithuania;

– in Ukraine such task shall be delegated to the Ministry of Social Policy;

5) **competent institution** shall mean an authority or an institution of the State of the Party that is in charge of the implementation of the legislation of that State of the Party and the practical implementation of this Agreement;

6) **work permit** shall mean a document authorising an employee or a posted employee of the State of one Party to work in the territory of the State of the other Party for the time specified therein;

7) **legislation** shall mean the laws and other legal acts applicable in the territories of the States of the Parties, relating to the fields of cooperation set out in Article 3 of this Agreement.

Article 3

Fields of cooperation

1. The Parties shall cooperate in the fields of ensuring the rights and interests of employees from the States of the Parties, relating to employment, working conditions and guarantees for posted employee, and combating illegal work, as well as in other fields related to labour migration.

2. The cooperation and exchange of information between the Parties in the field of social security as well as regarding determination of the applicable legislation in the field of social security is regulated by the Agreement between the Republic of Lithuania and Ukraine on Social Security.

Article 4

Designation of competent institutions

1. The competent institutions in the implementation of this Agreement are:
in the Republic of Lithuania:

– Employment Service under the Ministry of Social Security and Labour of the Republic of Lithuania in matters relating to employment mediation and issuing work permits;

– State Labour Inspectorate under the Ministry of Social Security and Labour of the Republic of Lithuania in matters relating to ensuring of working conditions, control of illegal work and providing guarantees to posted employees;

– Migration Department under the Ministry of the Interior of the Republic of Lithuania in matters relating to the issue of visas and temporary residence permits in the Republic of Lithuania to employees;

- State Social Insurance Fund Board under the Ministry of Social Security and Labour of the Republic of Lithuania in matters relating to social insurance;

in Ukraine:

– State Employment Service (Central Office) under the Ministry of Social Policy of Ukraine in matters relating to work permit for foreigners and stateless persons;

– State Labour Service of Ukraine under the Ministry of Social Policy of Ukraine in matters relating to supervision over compliance with labour and employment legislation in the terms of using work of foreigners and stateless persons;

– Pension Fund of Ukraine in matters relating to application of compulsory state pension insurance legislation;

– State Migration Service of Ukraine in matters relating to legal status of persons staying in the territory of Ukraine and the issue of temporary residence permits.

2. The Parties shall inform each other in writing of the addresses of the competent institutions and shall exchange other information necessary for mutual communication.

CHAPTER II EMPLOYMENT

Article 5 Work permit

1. The employee of the State of one Party intending to work in the territory of the State of the other Party or, if foreseen by national legislation of the State of the Party, employer intending to employ the employee of the State of one Party must acquire a work permit, unless provided otherwise by the legislation of the State of employment.

2. The employee of the State of one Party intending to work in the territory of the State of the other Party must acquire a visa or a temporary residence permit, unless provided otherwise by the legislation of the State of employment.

3. The conditions, procedure and time limits for the issue of work permits, visas or temporary residence permits for the employee of the State of one Party intending to work in the territory of the State of the other Party, also the entry into and stay in the territory of the State of employment shall be governed by the legislation of the State of the employing Party.

4. The employee may not perform another job other than that authorised under the legislation of the State of the employing Party.

Article 6

Employment relations

The employees of the State of one Party employed in the territory of the State of the other Party shall be subject to the legislation of the State of the employing Party.

Article 7

Wage

1. The wage paid to the employees of the State of one Party employed in the territory of the State of the other Party shall not be lower than that of the employed person of the State of the employing Party performing the same job for the same employer, and in cases where there is no such person, the official average gross monthly wage for the calendar year within the state economy, as published by the employing Party (including data on wage paid by sole proprietorships) by type of economic activity concerned. At the beginning of the calendar year, until such time as the average monthly wage for the current year is published, the wage shall not be lower than the average gross monthly wage within the state economy for the previous calendar year (including data on wage paid by sole proprietorships) by type of economic activity concerned.

2. The conditions and procedure for calculation of the average gross monthly wage shall be governed by the legislation of the State of the employing Party.

Article 8

Working conditions and employment contract

1. The employment contract concluded with the employee of the State of one Party employed in the territory of the State of the other Party shall clearly define the conditions of payment for work, the job function, the workplace, the duration of the employee's workday or working week, the length of the employment contract, the procedure for the termination of the employment contract, the procedure for the payment of expenses relating to the arrival from the State of residence and return thereto, and other issues related to the working conditions and residing in the State of employment.

2. Before entering into the employment contract, the employer shall inform the employee about the provisions of the employment contract to be concluded and about the procedure for amending and terminating the employment contract.

3. Before leaving to work in the territory of the State of the other Party, the employee shall be provided with a copy of the signed employment contract or a draft employment contract in a language which he/she understands and confirms that he/she has become acquainted with and accepts the employment and working conditions.

CHAPTER III

POSTING OF EMPLOYEES

Article 9

Work permit for posted employees

1. Posted employee of the State of one Party being posted by the employer for temporary work under a service or performance of work agreement (contracts) to the territory of the State of the other Party must acquire a work permit issued in accordance with the procedure established by the legislation of the State of the host Party.

2. Posted employee of the State of one Party being posted by the employer for temporary work under a service or performance of work agreement (contracts) to the territory of the State of the other Party must acquire a visa or a temporary residence permit, unless provided otherwise by the legislation of the State of the host Party.

3. The procedure and time limits for the issue of work permits, visas or temporary residence permits for a posted employee of the State of one Party being posted by the employer for temporary work to the territory of the State of the other Party, also the entry into and stay in the territory of the State of the host Party shall be governed by the legislation of the State of the host Party.

Article 10

Reimbursement of posting expenses

1. The employer who is posting an employee shall pay a wage and daily allowance during the posting taking into account the maximum amounts (of the daily allowance) and the procedure for the payment thereof set by the legislation of the State of the sending Party. The procedure for reimbursement of any additional expenses incurred by the posted employee during the posting (such as transport, travel, accommodation and other expenses) shall be set by the legislation of the State of the sending Party.

2. Daily allowance paid to the posted employee, provided it is not intended to cover the transport, travel, accommodation or other expenses of the employee, shall be included in the wage rates of the State of the host Party, as referred to in Article 11(2) of this Agreement.

3. The period of posting of the posted employee shall also include the time it takes the employee to travel to and from the place of work in the territory of the State of the host Party, as indicated by the employer and the time it takes the employee to travel to the place of work in the territory of the State of the host Party from the territory of the State of the sending Party and time it takes the employee to return to the place of employment in the territory of the State of the sending Party.

Article 11

Working conditions of posted employees

1. During the posting, irrespective of the legislation applicable to the employment contract or the employment relations, the posted employee shall be subject to the legislation norms of the State of the host Party, which stipulate the following:

- 1) the maximum working time and the minimum rest period;
- 2) the minimum annual paid holiday;
- 3) the occupational health and safety;
- 4) the working conditions of temporary employees;
- 5) the occupational safety of persons under the age of eighteen, pregnant employees, and employees who have recently given birth and are breastfeeding;
- 6) the provisions prohibiting discrimination at work.

2. Irrespective of the legislation applicable to the employment contract or employment relations, the wage paid to the posted employee during the posting (including increased pay for overtime, night shifts, and work during days off and holidays) shall not be lower than that of the employed person of the State of the host Party performing the same job at the host company, and in cases where there is no such person, the official average gross monthly wage for the calendar year within the state economy, as published by the host Party (including data on wage paid by sole proprietorships) by type of economic activity concerned. At the beginning of the calendar year, until such time as the average monthly wage for the current year is published, the wage shall not be lower than the average gross monthly wage within the state economy for the previous calendar year (including data on wage paid by sole proprietorships) by type of economic activity concerned.

3. The conditions and procedure for calculation of the average gross monthly wage shall be governed by the legislation of the State of the employing Party.

Article 12
Information

1. A Ukrainian employer posting an employee for temporary work in the territory of the Republic of Lithuania shall, in accordance with the procedure established by the competent authority of the Republic of Lithuania, inform the territorial unit of the State Labour Inspectorate under the Ministry of Social Security and Labour of the Republic of Lithuania at the place of work in advance of the employee to be posted about the working conditions applicable to the employee, as set out in Article 11 herein.

2. The Ukrainian employer shall ensure that documents related to the employee being posted, enabling to verify whether employers duly comply with the requirements set out in Article 11 of the Agreement, are available at the place of work throughout the posting period and are immediately provided to the competent institutions at their request.

CHAPTER IV
COOPERATION BETWEEN THE PARTIES

Article 13
Forms of cooperation

1. In implementing this Agreement, the Parties shall cooperate through their competent authorities and competent institutions.

2. The competent authorities of the Parties shall inform each other of any material changes to the legislation that are related to the scope of this Agreement.

3. In implementing the objectives set out in Article 1 above, the competent authorities or competent institutions of the Parties shall:

1) exchange information necessary to ensure the proper protection of the employment rights of the employee of the State of one Party employed in or posted to the territory of the State of the other Party;

2) exchanges best practices in the field of protection of the rights of employees and posted employees, propose measures to improve the protection of employees' rights;

3) organise meetings to assess the results of the application of the Agreement and coordinate its implementation.

4. The competent authorities and competent institutions of the Parties shall cooperate in the form of requests. Requests may be submitted in writing or via electronic means.

5. Documents required for cooperation within the scope of this Agreement, issued within the territory of the State of any of the Parties, shall be accepted without their legalisation or any other specific approval.

Article 14

Cooperation between the competent institutions

1. In order to ensure the implementation of the provisions of this Agreement, the competent institutions of the Parties shall designate contact persons and inform the competent institutions of the other Party thereof.

2. The competent institutions of the Parties shall cooperate as follows:

1) inform the competent institution of the other Party about work permits issued for employees of the State of that Party, including posted employees and about employers who post employees to the State of the other Party, posting terms, payment of social insurance contributions.

The exchange of information is carried out in a time limits and in a way defined by the competent institutions of the Parties;

2) inform the competent institution of the other Party about the employee or posted employee whose rights have been violated, and provide assistance in resolving the issue of his/her further employment or return to the State of citizenship or residence;

3) respond to requests from the competent institution of the other Party regarding the employment of the employee, his/her working conditions, working conditions of the posted employee, the remedies in cases involving violation of employee's rights, the decisions taken and conduct of the ongoing procedures;

4) exchange information that is relevant to the employment disputes or cases in question in order to ensure the protection of the interests of the employee and of the posted employee;

5) exchange information on inspection and work methods, planning and implementation of appropriate preventive measures;

6) take the necessary measures to protect and ensure the rights and legitimate interests of employees;

7) organise the exchange of specialists and bilateral visits with a view to sharing or adopting the best practices of the competent institution of the other Party.

Article 15

Exchange of information

1. Requests of competent institutions to provide information or perform actions shall include the following:

1) name of the requesting institution;

2) information or actions requested;

3) when information on a natural person is requested, his/her name, date of birth and/or personal identification code;

4) when information on a legal entity is requested, its name and identification number;

5) reason for making a request and a brief description of facts and circumstances.

2. The competent institution of the Party after receiving the request may also request other information necessary for the execution of the request.

3. Information, the collection of which does not require inspections of natural persons or legal entities or performance of other administrative procedures (such as when information on the establishment of legal entities or the fact of employment of the posted employee is requested), shall be provided to the requesting competent institution no later than 10 working days of the receipt of the request. Other information, the collection of which requires the performance of certain administrative actions (for example, inspection of a legal entity), shall be provided to the requesting competent institution no later than 30 working days of the receipt of the request.

Article 16

Refusal to provide information

1. The competent institution of the Party may refuse to execute a request or a part thereof if the request does not meet the requirements of Article 15 of this Agreement, if the execution of the request may be in violation of human rights, undermine the sovereignty or security of the State of the Party, or be in conflict with the public order of the State of the Party receiving the request.

2. The competent institution of the Party refusing to execute a request or a part thereof shall within 10 working days of the receipt of the request inform the competent institution of the other Party, indicating the reasons for such refusal.

3. The requesting competent institution shall be informed if the request is forwarded to another competent institution of the Party.

CHAPTER V FINAL PROVISIONS

Article 17 Personal data protection

1. Any personal data provided by the competent institution of one Party to the competent institution of the other Party may only be used for the purposes of this Agreement. Personal data shall be processed in accordance with the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data signed in Strasbourg on 28 January 1981 (ETS No. 108), as amended by the Committee of Ministers of the Council of Europe on 15 June 1999 in Strasbourg, and the legislation applicable within the territories of the States of the Parties governing the legal protection of personal data.

2. The transmitted personal data shall be accurate and only include personal data to the extent necessary for the fulfilment of a specific purpose and task, taking into account the objectives of this Agreement. Where appropriate, inaccurate or incomplete data shall be corrected, supplemented, destroyed or processing of such data shall be stopped.

3. The transmitted data shall be destroyed as soon as they become redundant for the purpose for which they were transmitted. The competent institution of the Party providing the data shall be informed of their destruction and the reasons therefor.

4. The competent authorities and competent institutions of the Parties shall take appropriate organisational and technical measures to protect the personal data transmitted from accidental or unlawful destruction, modification, disclosure, loss, and unlawful processing.

5. Information on what personal data is stored, the purpose for which they are used or intended to be used shall be provided at the request of the person concerned. The right of the person concerned to receive such information shall be governed by the legislation of the State of the Party receiving the request. The request to provide this kind of information may be rejected if it relates to the necessity to implement this Agreement, ensure state security, public order, prevention of criminal offences and to protect the rights and freedoms of a person or third parties.

Article 18

Language

In the implementation of this Agreement, the competent authorities and institutions of the Parties shall use the English language.

Article 19

Coordination of the implementation of the Agreement

To ensure the coordination of the implementation of the Agreement and to assess the results achieved, the representatives of the competent authorities of the Parties shall meet at least every two years or, if agreed by the competent authorities of the Parties, more frequently. Meetings shall be held in the territory of the States of the Parties alternately.

Article 20

Expenses

1. Each Party shall pay the expenses incurred by its institutions in the application of this Agreement.

2. Mutual assistance and information provided under this Agreement shall be free of charge; however, if the satisfaction of a request entails extraordinary expenses, the

requesting and requested competent institutions may agree on a case-by-case basis on the conditions and the procedure for the reimbursement of the expenses incurred.

3. The Party sending delegations or individual experts to the territory of the State of the other Party shall bear the costs of their travel, accommodation and meals, as well as other expenses provided for by the legislation of the State of the sending Party.

4. The Party hosting the delegation or individual experts of the other Party shall bear the expenses of translation or interpretation and technical preparations in the State of the host Party.

Article 21

Dispute resolution

Disputes between the Parties concerning the interpretation of the provisions of this Agreement shall be settled by direct negotiations and consultations.

Article 22

Legal power of the Agreement

The provisions of this Agreement shall not affect the international obligations assumed by the Parties or their States and the legislation thereof.

Article 23

Entry into force, amendment and termination of the Agreement

1. This Agreement shall enter into force on the date of receipt of the last written notification by which the Parties notify each other through diplomatic channels that all internal legal procedures necessary for the entry into force of this Agreement have been completed.

2. This Agreement may be amended by mutual written agreement of the Parties. The amendments made shall enter into force in accordance with the procedure laid down in paragraph 1 of this Article. The amendments shall be effected by appropriate protocols that shall form an integral part of this Agreement.

3. This Agreement shall be concluded for an indefinite period. Each Party may terminate this Agreement by notifying the other Party in writing through diplomatic channels. In such case, the Agreement shall cease to have effect six months after the receipt of the notice of termination.

4. As of the date of entry into force of this Agreement, the Agreement between the Government of the Republic of Lithuania and the Government of Ukraine on mutual employment of citizens, done in Kyiv on 28 March 1995 shall expire.

Done in Kyiv on December 7, 2018 in two originals in Lithuanian, Ukrainian and English languages; all texts are authentic. In case of divergence of the interpretation, the English text shall prevail.

**For the Government of
the Republic of Lithuania**

**For the Cabinet of Ministers of
Ukraine**
