Business Trips and Posting of Workers
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**Introduction**

Constant developing of the European Union (EU) common market has created favourable conditions for companies to post their workers abroad to work in other Member States, mostly due to the international nature of services, and this trend is growing.

According to EU common basic principles any kind of cross-border supply of services and furtherance of the established common market must always be done through equitable and fair competition. But we shouldn’t forget the workers whose rights must not be harmed through this process. The Member States shall adhere to the collective minimum requirements developed by the EU.

The term “töölahetuses viibiv töötaja” (“worker on a business trip”) used in Estonian law is linguistically similar to the term derived from the law of the European Union “lähetatud töötaja” (“posted worker”). The term “posted worker” is regulated by the Directive 96/71/EC of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services.¹

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¹ EU member states must adhere to the principles of the Directive (Austria, Belgium, Bulgaria, Estonia, Spain, Croatia, Ireland, Italy, Greece, Cyprus, Lithuania, Luxembourg, Latvia, the Netherlands, Malta, Poland, Portugal, France, Sweden, Romania, Germany, Slovakia, Slovenia, Finland, Denmark, Czech Republic, Hungary, United Kingdom) and, in addition, it also applies to the countries of the European Economic Area (EEA) (Iceland, Liechtenstein and Norway) but the principles of the Directive concerning the posting of workers also apply in Switzerland.
Pursuant to the current Employment Contracts Act, a worker is on a business trip when an employer sends the worker outside the workplace prescribed by the employment contract in order to perform duties domestically or abroad. Therefore, if an Estonian employer has agreed with its worker that the place of employment is Sweden, travelling from Estonia to Sweden does not constitute a business trip for the purposes of the Employment Contracts Act.

The regulation of the Directive has not established that temporary workplace must remain outside the workplace specified in the employment contract. For the purposes of the Directive, a posted worker is also the one with a temporary employment contract for working on the territory of a Member State, because, for the purposes of the Directive, it is important that employment in another country is of a temporary nature. The Directive is applicable in the event of temporary work abroad, not when the worker moves to live and work in another country on a permanent basis and this has been agreed from the start.

Based on the above, it could be said that the term “business trip” may sometimes overlap for the purposes of the current Employment Contracts Act of Estonia and the Directive, but not always.

This brochure will expand upon the definition of a “posted worker” both for the purposes of Estonia and the European Union and the rights, obligations and liability resulting from such cross-border business trips to the worker and the employer.
BUSINESS TRIPS UNDER ESTONIAN LAW
In the Employment Contracts Act subsection 8 of section 6 and sections 21 and 40 regulate issues concerning business trips. Also pp. 2–4 and p 5 of § 628 of the Law of Obligations Act and the Regulation No 110 of the Government of the Republic of 25 June 2009 titled “Policies for the payment of compensation for the expenses relating to business trips and the minimum daily allowance rate, conditions and policies for the payment thereof” (hereinafter referred to as the regulation concerning business trip expenses) are applicable.

In order to understand whether a trip constitutes a business trip we first need to determine the usual workplace of the worker. Pursuant to § 5 (1) 8) of the Employment Contracts Act, workplace must be communicated to the worker in writing.

The Employment Contracts Act presumes that the place of performance of work is agreed on with the precision of local government (city or rural municipality) but considering the nature of work, other agreements are not prohibited either. For example, an employer and a worker may agree on working at a specific address, or, in case of mobile work, different counties (Tartu County, Viru County), countries (Estonia, Norway) or even a region (Europe). The place of performance of work must be defined based on the nature of work, the interests of the worker and the employer and the principle of good faith. It is not in accordance with the law to define an unreasonably wide area as the place of performance of work. The workplace communicated to the worker under the employment contract must correspond to the actual place of performance of work.

For example, in case of sales representatives, it can be justified to define the Republic of Estonia as the place of performance of work, however, it is not appropriate to include it in the employment contract of a welder working in a specific factory, because such agreement would not correspond to the purpose of the Employment Contracts Act, which is to provide parties to the employment contract with security as to the location of the workplace.

The Republic of Estonia as workplace is not justified if a transport company employs a foreigner as long distance vehicle driver who mainly drives in other European Union Member States and only comes to Estonia either infrequently or not at all. This cannot be deemed as working in Estonia. Such cases do not entail business trips abroad but rather employment abroad and the employer is under no obligation to pay separate compensation for the business trip.

At the same time, each time an employer assigns a worker to work outside the ordinary workplace, pursuant to law, this constitutes a business trip and all of the resulting obligations and limitations arising from law must be adhered to.

When a foreigner working in Estonia is sent on a business trip, it is important to remember that a foreigner with a residence permit or right of residence in Estonia has to stay in Estonia for the duration of at least 183 days a year. Foreigners with a residence permit who have to be away from Estonia for the purposes of employment more than 183 days a year, must register their stay away from Estonia with the Police and Border Guard Board. If a foreigner living in Estonia under the right of residence has to leave Estonia on business but the stay abroad does not last more than one continuous year, then such leave will be considered to be part of permanent residence time in Estonia.
Daily allowance for business trips

Depending on the destination of the business trip, it can be either domestic or foreign (business trip abroad).

The main difference between domestic and foreign business trips is that for domestic business trips the employer is not obligated to pay a daily allowance.

The terms and conditions for the payment of daily allowance on foreign business trips are regulated in the regulation of business trip expenses.

The minimum rate of the daily allowance for foreign business trips is 22.37 euros per day (minimum rate in 2015) but it is conditional upon the destination of the business trip which has to be at least 50 kilometres from the border of the settlement where the place of performance of work is located. Pursuant to § 7 (1) 3) of the regulation concerning business trip expenses, daily allowances of up to 32 euros for foreign business trips are not subject to taxation. This means that the employer may also pay the worker a higher daily allowance but this shall be deemed a fringe benefit for the purposes of taxation.

Notification of workers of special conditions on business trips

If an employer assigns a worker on a business trip to a country whose law is not applicable to the employment contract between the parties, the employer shall, pursuant to § 6 (8) of the Employment Contracts Act, in addition to what has been specified in other sections of the Act, notify the worker in writing of the special conditions related to the business trip.
The special conditions to be communicated to the worker in writing are: the time of working in the country, the currency of payment of the wages (whether their remuneration is paid in euros or in the currency of the destination of the business trip), the benefits relating to the stay in the country (business trip allowance, accommodation opportunities, etc.), and the conditions of returning from the country (means of transportation and the date of departure). This information has to be given to the worker before their departure to the foreign country.

**Example.** The employment contract has been concluded in Estonia and the worker works in Estonia. Therefore, Estonian law is applicable. If the employer assigns the worker on a business trip with a duration of more than one month to Latvia, the employer must communicate before the departure the following:

1. **in which currency and amount the employer will pay the wages during the worker’s stay in Latvia;**
2. **whether he is entitled to a daily allowance and in what amount;**
3. **what are his accommodation opportunities during the business trip and whether the employer will reimburse the stay in a specific hotel or the worker must find a place of residence himself and the employer will reimburse living expenses in some specific amount;**
4. **what are the terms for returning to Estonia: whether he can do this at the end of the business trip at the employer’s expense or maybe the parties will agree on a weekly return at the employer’s expense using some specific means of transportation.**
BUSINESS TRIPS AND POSTED WORKERS FOR THE PURPOSES OF THE DIRECTIVE
The term “worker on a business trip” ("töölahetuses viibiv töötaja") used in Estonian law is linguistically similar to the term "posted worker" ("lähetatud töötaja") derived from the law of the European Union, which follows from the Directive.

Pursuant to the Employment Contracts Act, an employer may send a worker outside the place of performance of work prescribed by the employment contract in order to perform duties.

Hence, the “business trip” for the purposes of the Employment Contracts Act and the Directive may overlap but not always. It is important to be clear in which cases we can speak of a posted worker in the sense of the Directive.

The Posting of Workers Directive 96/71/EC is applied in three situations:

1) When an employer posts a worker to another Member State on his own account and under his direction under a contract which the employer has concluded with the party in the State for whom the services are intended. This often applies to, for example, skilled workers, handicraftsmen and other specialists.

**Example.** An Estonian company commissions a Polish company for some construction work in the Republic of Estonia. In order to perform the service, the Polish company posts its workers to Estonia. The Polish employer will be responsible for fulfilling the order and instructing its workers. However, the domestic contracting company will be responsible for compliance with working environment regulations in Estonia.

2) When an employer posts a worker to an establishment or to undertaking owned by the group in the territory of a Member State.

This provision is often applicable to branch or area managers, specialists and skilled workers.

**Example.** An Estonian worker is dispatched from a parent company operating in Estonia to perform duties in a subsidiary in Finland. His work in Finland is organised by the Finnish company. The Finnish company is also responsible for the compliance with working environment regulations during the Estonian worker’s assignment in Finland.

3) When the employer, being a temporary employment undertaking or placement agency, hires out a worker to a user undertaking established or operating in another Member State.

This is a tripartite relationship between the temporary agency, temporary agency worker and the user undertaking. This type of assignment is most usual in construction, agricultural, service or catering sectors.

**Example.** A Lithuanian worker is sent through a temporary agency operating in Latvia to work for a user undertaking in Norway. A service contract is in place between the Latvian and
Norwegian companies for the supply of temporary labour. The Lithuanian worker and the Latvian temporary agency conclude an employment contract under Norwegian law, job assignments are given and performance is supervised by the Norwegian company, which is also responsible for the Lithuanian’s working environment and occupational safety. In such situations, the entity paying the worker’s salary may be either the Latvian or the Norwegian company.

In the event of any delays with the payment of wages, the worker must still contact the employer in Latvia because in case of any claims, the only obligated person with respect to the worker is its actual employer and not a third party (e.g. Norwegian company) they are working for.

In all three cases the posting company (employer) and the worker must have an employment contract and this employment relationship must be maintained for the entire duration of the assignment. If, during the stay in a foreign country, the employment contract between the employer and the worker terminates and the worker concludes an employment contract with the company in the destination country, he will no longer be a posted worker for the purposes of the Directive.

A posted worker for the purposes of the Directive differs from a worker assigned on a business trip for the purposes of the Employment Contracts Act first and foremost because a posted worker always has a specific recipient or a parent company or subsidiary belonging to the group or, in case of temporary agency work, a user undertaking. Hence, a posted worker in a foreign country has a company that handles their employment or working environment. When being assigned on a business trip for the purposes of the Estonian law, for example to visit a trade fair, there is nobody to receive the worker in the foreign country.
Why should posted workers be distinguished from workers on business trips?

The Directive makes certain terms and conditions of employment that are applicable to workers of the destination country, also mandatory for posted workers. For example, if a worker is posted from France to Germany, he or she must be provided with terms and conditions of employment that are required in Germany.

Terms and conditions of employment that must be provided to posted workers pursuant to Article 3 (1) of the Directive:

- Maximum work periods and minimum rest periods;
- Minimum paid annual holidays;
- Minimum rates of pay, including overtime rates;
- Conditions of hiring out workers, in particular the supply of workers by temporary employment undertakings;
- Health, safety and hygiene at work;
- Protective measures in the terms and conditions of employment of pregnant women or women who have recently given birth, of children and young people;
- Equal treatment between men and women and other provisions on non-discrimination.

If the terms and conditions of employment are more favourable in the home country of the posted worker, the terms and conditions of employment of the home country shall be applied.

One important condition of employment to be ensured to posted workers in the destination country according to the Directive is the local minimum rate of pay. In addition, overtime must be compensated to posted workers as applicable in the destination country.

For example, in case of an assignment to Finland, workers must be paid minimum rate of pay prescribed by the collective bargaining agreement of the specific sector. In Finland there is no general minimum rate of pay and the collective bargaining agreement of the relevant sector has to be adhered to.

**Example.** A worker of a manufacturing company was made redundant in 2011. She spent a long time looking for employment and finally found a suitable offer from a temporary agency in Estonia. Considering her education and prior work experience, the temporary agency offered her a job as domestic help in Germany.
Pursuant to the employment contract concluded in Estonia, the temporary agency worker became employed as full time domestic help, working 40 hours per week, with the place of employment in Estonia, regardless of the fact that from the beginning the parties agreed verbally that the place of performance of work will be in Germany. According to the agreement, the salary of the domestic help was 450 euros per month.

The temporary agency worker was employed in Munich for five months, the workday usually lasted for up to ten hours and she also had to work during weekends, which means seven days a week. The employer paid for the work 450 euros per month as agreed in the employment contract, plus daily business trip allowance. The worker became seriously ill due to continuous work and had to return home and cancel the employment contract on extraordinary basis.

After the end of the employment relationship, the worker filed with the labour dispute committee a claim for unpaid salary on the grounds of the Posting of Workers Directive and the minimum rate of pay of 8.75 euros per hour applicable to cleaning service workers in Germany during her employment.

The labour dispute committee satisfied her claim and ordered the payment of 2,800 euros for the time she worked in Germany.

What went wrong in the case described in this example?

1. The workplace in the employment contract should not have been Estonia because the worker did not work for the temporary agency one single day in Estonia and ever since the beginning it was agreed that her place of performance of work would be Germany.
2. The daily business trip allowance is not subject to social security tax and, therefore, incapacity benefit, unused holiday compensation and subsequent pension were calculated only based on the minimum rate of wages paid.
3. The worker was paid wages that did not correspond to the minimum rate applicable in the specific sector in Germany.
4. By demanding continuous work seven days per week, her rights to daily and weekly rest were violated and eventually it was harmful to her health.

Choice of applicable law when working abroad

Generally, a contract is governed by the law of the country that has been agreed upon by the parties. At the same time, this does not release the contractual parties from their obligation to comply with the mandatory provisions of the law of the country where the contract is actually implemented.

Example. A worker concluded an employment contract with an Estonian employer according to which its implementation shall be governed by Estonian law. However, in reality the worker is employed in Sweden on the construction sites where his employer happens to
win a contract. Thus, the worker wants to know whether in terms of occupational health and safety regulations he must be guided by Estonian or Swedish law.

Answer: he must be guided by the law of the country of performance of work, i.e. the occupational health and safety regulations effective in Sweden.

In addition, in case of work in a foreign country, the following principle applies: the choice of applicable law must not lead to the worker being removed of social protection and guarantees. This means that the worker must not lose the protection that they are afforded under the laws of the country of assignment.

Upon the application of law, the agreement between the parties must be considered but, at the same time, the agreement should not harm the worker in any way.

Example. A Romanian driver concluded an employment contract with an Estonian employer in his home country, according to which the place of performance of work is Estonia but the applicable law is Romanian. The Estonian employer wants to pay the minimum rate of pay applicable in Romania which is lower than that in Estonia.

The employer’s decision does not comply with the principles applicable to posted workers. The driver has the right to receive the minimum rate of pay applicable in Estonia and in case he is subject to the general labour agreement for domestic carriage of goods applicable in Estonia, he must be paid as indicated in this agreement.

If the parties to the employment contract have not agreed upon jurisdiction, the applicable law shall be based on:

- The country where the work is typically performed;
- The country from which the worker was employed;
- The country to which the employment contract is most related to.
Labour disputes arising from working abroad

Options and location for the resolution of disagreements arising between the parties should be determined in the employment contract, i.e. the employer and the worker should agree on jurisdiction. The contracting parties should always carefully consider which country’s court to turn to in case of a labour dispute.

**Example.** An employment contract between the parties may include the following clause: “Any disagreements arising from the employment shall be resolved by way of negotiations. Should negotiations fail, the labour dispute shall be resolved pursuant to Norwegian law and the procedures of the Kingdom of Norway.”

If the parties have agreed on jurisdiction, all disputes will be resolved in the country that was specified in the contract. However, in certain situations workers may turn to a dispute resolution body of their home country. An Estonian worker may have recourse to an Estonian court or labour dispute committee, if the jurisdiction clause can be deemed a standard clause and it is clearly harmful to the worker (for example, it would mean unreasonable travel expenses between Estonia and Norway, etc.).

If the parties have not made provisions for jurisdiction in the employment contract, the worker has the right to seek recourse in the court of the country where the work is performed.

NB! In Estonia, the labour dispute committee also engages in the resolution of labour disputes but, unlike the court, it operates under a simplified procedure. As ascertaining the legal provisions of a foreign country can be a complex and lengthy process and the labour dispute committee has much less time for processing cases as compared to the courts (usually 30 days), the labour dispute committee may refuse labour dispute cases containing any foreign element due to the lack of expertise.
POSTING OF WORKERS TO ESTONIA
According to the Working Conditions of Workers Posted to Estonia Act, a posted worker is a natural person who usually works in a foreign state on the basis of an employment contract and whom the employer posts to work in Estonia for a specified period of time for the provision of a service. A contract concluded in a foreign state concerning an employment relationship is considered to be an employment contract if it complies with the provisions of the Employment Contracts Act relating to an employment contract.

Regardless of the choice of the law to be applied to an employment contract, the application of the working conditions listed in section 5 of the Working Conditions of Workers Posted to Estonia Act must be guaranteed for a posted worker, including:

- working time;
- rest time;
- time off for a prenatal examination;
- wages and compensation for overtime work;
- duration of annual holiday;
- equal treatment and equal opportunities.

If the provisions of the laws of a foreign state that apply to an employment contract are more favourable to a posted worker than the Estonian provisions, the provision that is more favourable to the worker shall be applied.
Occupational health and safety requirements

The Occupational Health and Safety Act of Estonia and any regulations passed thereunder shall be applied to a foreign worker posted to work in Estonia. This Act and the regulations shall be applied even when they are less favourable to the posted worker than the provisions of foreign law. The compliance with the occupational health and safety requirements shall be ensured by the receiving party for whom the posted worker works in Estonia. The receiving party is a legal or natural person contracting the work or services and organising the posted worker’s work in Estonia.

If work or a service has been contracted

- from a company registered and located abroad, the receiving party shall be responsible for ensuring the compliance with the occupational health and safety requirements of the workers posted to Estonia;
- from a company registered in Estonia, the employer of the workers shall be responsible for ensuring the compliance with the occupational health and safety requirements.

**Example.** An Estonian company has entered into a contract with a company registered abroad for buying and installing a new production line in Estonia. The company who ordered the work is responsible for ensuring the compliance with the occupational health and safety requirements during the installation of the system.

**Example.** An Estonian company building a factory has a contract with a main contractor who, in turn, orders work from a company registered abroad that will post its workers to work in Estonia. In such case, the main contractor is the receiving party who is responsible for the occupational health and safety of the posted workers.
The receiving party of posted workers must provide them with the same conditions as applicable to the other workers working for the company.

Adequate instruction and training concerning the working environment must be organised to posted workers. If full instruction and training is impossible due to lack of information on the specifics of the posted worker’s work (the posted worker comes to Estonia to carry out some very specific work, in which case the contracting entity is unable to instruct him), the instruction must be provided concerning the working environment of the receiving party. In this situation it is important that the contracting entity and the contractor agree upon the extent of the instruction and training provided by the employer of the posted workers. Confirmation of the performed instruction and training has to be annexed to the agreement.

The receiving party of posted workers is responsible for their instruction as to the working environment, including different risk factors thereof and the measures to reduce their impact. It is important to inform posted workers of the personal protective equipment used at the workplace and if they do not have the required or proper personal protective equipment, they have the right to receive it.

Information regarding safety signs used in the company, including the meaning of signs and signals, is also essential.

The posted workers should also receive information about first aid and emergency evacuation procedures: who can give first aid and the location of the first aid kits; the evacuation signal; evacuation routes and exits, and the assembly point.

In companies operating in Estonia the safety instructions are usually in Estonian. Posted workers may not understand Estonian and, therefore, the instructions must be given in the
language that they understand. If written translation of the instructions is not practical (maybe it is a one-time posted worker case), the posted worker must be granted an oral translation of the instructions. If the instruction is registered, a relevant notification regarding the translation could be added to it.

The receiving party must also monitor how the posted workers carry out their work—whether they do it safely and by following the given instructions.

Should a posted worker in Estonia sustain an accident at work, the receiving party of the posted worker shall conduct the investigation under similar terms and conditions as when investigating an accident with one of its own workers. Ultimately the contracting entity shall draw up a report of the occupational accident where the foreign employer of the posted workers should be named as the employer. The receiving company shall submit the report to the Labour Inspectorate of Estonia.

**Specific rights and differences**

The terms and conditions of the payment of wages and overtime and the duration of annual holiday applicable in Estonia are not applied to skilled workers whose assignment lasts less than eight days. A skilled worker is a worker whose duty is the initial assembly or first installation of products required for putting the ordered goods into service, if such work is an integral part of the commission.
**Example.** An Estonian company commissions a new production line from Germany. It is agreed with the manufacturing facility that their representatives will come to install the line. The installation of the production line takes five days. During this time, the installers must adhere to the provisions of the Occupational Health and Safety Act of Estonia but they are not subject to the terms and conditions for payment of salaries, compensation of overtime work and granting and calculation of annual holiday as regulated by the Employment Contracts Act of Estonia.

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**Receiving foreign workers**

Citizens of the European Union, nationals of a Member State of the European Economic Area and nationals of the Swiss Confederation (hereinafter EU citizens) may live and work in Estonia without registering a temporary right of residence for up to three months. A family member of an EU citizen may work in Estonia only if they have a temporary or permanent right of residence as a family member of an EU citizen.

Posted workers for the purposes of the Working Conditions of Workers Posted to Estonia Act who are third-country nationals or people with unidentified citizenship, must apply for a temporary residence permit in order to commence work in Estonia. The temporary residence permit issued to a posted worker specifies, besides the workplace and position, also the employer who can be either a private individual or legal person. Obligations arising from the Aliens Act will also apply to any such person.

For more information please visit the Police and Border Guard Board website www.politsei.ee or call the customer service hotline: +372 612 3000.
SUPERVISION

Working conditions of workers posted to Estonia are supervised by the Labour Inspectorate. The Labour Inspectorate shares information and responds to justified information requests regarding the laws, other legal acts and extended collective bargaining agreements that are applicable to posted workers.

The Labour Inspectorate provides information regarding sole proprietors and legal entities acting as temporary agencies. But the Inspectorate also shares information on cases of illegal international activity or any other offences or violations committed by temporary agencies. The Labour Inspectorate cooperates with the respective institutions of the Member States of the European Union and the Member States of the European Economic Area.

Information exchange system IMI between the respective supervisory bodies of the European Economic Community is used in the event of any problems concerning working conditions of posted workers. This system enables the Labour Inspectorate of Estonia, for example, to make inquiries to other countries concerning companies posting their workers to Estonia, and vice versa.
RECOMMENDATIONS TO EMPLOYERS

Before posting workers to foreign countries, you need to answer the following questions:

• Where is the worker’s place of employment? The actual place of performance of work must be specified in the employment contract.
• Could this be a case of a posted worker for the purposes of the Directive of the European Parliament and of the Council concerning the posting of workers?
• Shall the calculation of wages be based on the minimum rate established in Estonia or in the respective foreign country?
• Is the worker entitled to a daily allowance during the assignment?
• Which rights or laws specific to the destination country may affect the worker’s working conditions and which obligations does the employer thereby become subject to?
• Should the posted worker be registered in the destination country before being posted?

Before posting a worker, the employer should research the employment and working environment regulations of the destination country.

More detailed information on employment requirements of posted workers can be found from contact agencies of destination countries: http://europa.eu/youreurope/citizens/national-contact-points/index_en.htm

In Estonia, the contact agency of posted workers is the Labour Inspectorate.
RECOMMENDATIONS TO WORKERS
Useful information concerning working and living conditions abroad can be obtained from the job mobility portal EURES (European Employment Services).

Remember, Estonian citizens wishing to stay in another EU Member State for longer than three months, must register their stay in the country. In order to register, one must contact the relevant local authority not later than three months from the date of arrival in the country.

The same conditions apply, whether you want to move, work or study in another Member State.


**Tax issues**

Before commencing work abroad, a worker should find out the following:

1. How will the wages be paid and will the wages be paid by the Estonian employer or the one in the country of destination;
2. Does Estonia have a bilateral tax treaty in place with the destination country and what are the workers’ potential tax obligations. More detailed information is available on the website of the Estonian Tax and Customs Board www.emta.ee or from their service bureaus;
3. Are you required to file an income tax return in the foreign country.

Upon arrival, one must ask the contracting entity how the payment of taxes on wages is arranged, and is it the employer or the worker who makes tax payments.

It would also be wise to keep all documents regarding the receipt of pay or the payment of taxes. Remember, everyone receiving income in a foreign country must declare the income in Estonia even if the employer has withheld and paid the taxes in the foreign country.

If the income tax is paid in the foreign country pursuant to the laws of the relevant country and the said foreign country has a right to impose the tax (ensured by a bilateral tax treaty), the foreign income shall not be double taxed in Estonia.

More information on the website of the Estonian Tax and Customs Board: www.emta.ee.

**Health Insurance**

If social security tax for the posted worker is paid in Estonia and the worker has a valid health insurance, they must order the European Health Insurance Card before going abroad. This can be done through www.eesti.ee by submitting an application to the regional customer service office of the Health Insurance Fund or by sending it to the Health Insurance Fund by post or via email in a digitally signed form.
The European Health Insurance Card gives the worker the right to receive medical care they need during their temporary stay in the country of employment on equal terms with the insured in that particular Member State. The required treatment or medicines are determined by the doctor who, takes into consideration the person's health and the duration of their stay.

If a worker is posted to another Member State for more than one year, the Health Insurance Fund will issue a Form E106, which has to be registered in the country of assignment. Thereupon the worker receives the right to get any kind of medical assistance on equal basis with those insured in that particular country.

If an Estonian citizen starts working in an EU Member State and the social security tax or health insurance contributions are paid in that country, they will have health insurance while working in that country. However, they must not have valid insurance in Estonia at the same time.
Being posted from another Member State of the European Union to Estonia, European Health Insurance Card or Form E106/S1 are prerequisites for medical assistance. The European Health Insurance Card must be presented at the doctor’s office but Form E106/S1 has to be registered with the Health Insurance Fund.

If an individual works in multiple EU Member States, the National Social Insurance Board of either their state of residence or the employer’s domicile has to be contacted. This Board will determine which country’s legislation concerning social insurance the worker is subject to, i.e. which Member State to refer to. Jurisdiction will be based on the place of residence and on how much of their activities take place in the country of residence.

More information can be found on the website of the Estonian Health Insurance Fund: www.haigekassa.ee.

Social insurance
In order for an individual to be able to freely select a country of residence and employment within the EU, the right to free medical assistance, sickness benefits, pension, occupational accident and illness benefits, unemployment benefits and family benefits for their children must be guaranteed to them. Solely by applying domestic law, it is not always possible to grant social protection to migrant workers. Depending on the medical and pension systems of the country of residence and employment, an individual may find itself in a situation where they are covered by social insurance in both countries at the same time or in neither.

Information can be found on the website of the Estonian National Social Insurance Board www.sotsiaalkindlustusamet.ee.
MISUSE OF LABOUR

People working abroad are more vulnerable and sometimes it happens that they are misused by the sending or receiving entities. In worst cases, the outcome could be misuse of labour or even forced labour.

Misuse of labour is forcing someone to work through deceit or threats or taking advantage of another person’s unawareness or vulnerability in labour relations in general.

What indicates a potential misuse of labour?
- A worker is asked to pay for being sent abroad for work.
- The party sending the worker abroad or receiving them there demands they hand over their identity documents.
- They are denied a contract or are offered a contract the content of which the worker is unable to understand.
- An employer threatens to withhold pay or refuses to pay it.

What to do if you experience trouble while working abroad?

Citizens of Estonia can get consular protection from the consuls of the foreign missions of Estonia and the honorary consuls representing Estonia.

Information is available on the website of the Ministry of Foreign Affairs http://vm.ee/et/kkk-eesti-kodanikule.

If you get into trouble over the weekend or during state holidays or if there is no foreign mission of Estonia in the particular country you are staying in, you can contact the on-call staff at the Ministry of Foreign Affairs of Estonia: +372 5301 9999 or +372 637 7000.

Likewise, in the absence of foreign missions of Estonia, Estonian citizens can contact the foreign missions of all other member states of the European Union for assistance.

Also volunteers from the non-profit Living for Tomorrow can help you.

Information: www.lft.ee
Hotline: +372 660 7320
Annex 1. Legislation applicable for cross-border employment

The posting of workers within the EU is addressed by several laws, which all employers and workers providing services within the EU must know.

European Union regulations:
- Treaty establishing the European Community
- Rome Convention (Convention on the Law applicable to Contractual Obligations)
- Rome I Regulation
- Lugano Convention
- Brussels I Regulation
- Directive 96/71/EC of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services

Estonian regulations:
- Private International Law Act
- Working Conditions of Workers Posted to Estonia Act
- Employment Contracts Act
- Occupational Health and Safety Act
- Domestic laws

In other Member States of the European Union:
- Domestic laws
- Collective bargaining agreements

NB! Legislation regulating labour relationships or disputes within the European Union and the European Economic Community are not applicable in third countries, such as Russia, the Ukraine or Belarus.

It is good to know that the principles of the Directive also prohibit more favourable treatment of service providers from third countries compared to those from the Member States.
Annex 2. Brainteasers

Help an Estonian employee get on a business trip abroad! For this you need to pass the correct (green) points and avoid the misleading (red) ones. Connect the right points with one continuous line so that the line would go through the centres of squares, pass each square only once, and avoid all red ones.
What does an employer require from an employee whose business trip lasts longer than 30 consecutive calendar days?

Find the terms below from the grid and cross out their letters. The remaining letters will reveal the correct answer.

**JOB, COST, MINOR, RETURN, WAIVER, FOREIGN COUNTRY, REFUSAL, CONTRACT, DEADLINE, DOMESTIC, EMPLOYER, PREGNANT, AGREEMENT, REASONING, START DATE, COMPENSATION, EXPLANATION, NOTIFICATION, PREPAYMENT, UNILATERAL**
Correct answers

Maze:

1. Employment contract
2. Explanation
3. Time of employment abroad
4. Business trip agreement
5. Currency for payment of remuneration
6. Benefits related to stay abroad
7. Application of foreign laws
8. Conditions of return
9. Employee’s approval
10. Pre-payment
11. Daily allowance
12. Compensation of business trip expert

Word search puzzle:
approval from an employee
Working life raises questions? The Labour Inspectorate knows the answers

LOOK
at the website of the Labour Inspectorate of Estonia at www.ti.ee

CALL
the lawyer’s hotline at 640 6000

WRITE
to the lawyers at jurist@ti.ee