

International
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**Illegal Employment
of Third-Country
Nationals: 2017-2022
Situation Analysis**

2023/2

EMN STUDY

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SUMMARY

Illegal employment in Lithuania. In 2017-2022, Lithuanian authorities prioritized combatting illegal employment. This commitment is evident in the implementation documents of the Programme of the Eighteenth Government, outlining strategies to diminish the shadow economy. Notably, efforts to curb the illegal employment of non-EU nationals were prominent in both legislative and practical domains. Legislatively, the Law on the Legal Status of Foreigners was revised requiring employers to report information to the State Labour Inspectorate and the Employment Service on foreigners employed or posted to Lithuania for temporary employment. Additionally, the Law on Construction was amended to introduce a transparent worker's identification code for persons working at construction sites. Future plans include amending the Law on Employment to reassess financial penalties for illegal employment, unreported work and violations of the employment procedure of foreigners. Practically, the State Labour Inspectorate, charged with preventing and identifying illegal employment and unreported work, established specialised inspector task forces within its Vilnius and Kaunas territorial divisions for combating trafficking in human beings for forced labour.

Preventing Illegal Employment of Third-Country Nationals. Successful prevention of illegal employment is impossible without effective analytical work to assess the sectors of economic activity with the highest potential for illegal employment. To this end, a collaborative model involving control and law enforcement agencies has been established, incorporating the Risk Analysis Centre and the Joint Operations Centres. The working model under development strengthens cooperation between the authorities responsible for preventing illegal employment by actively coordinating control and prevention measures and by promptly exchanging the necessary information and data in order to identify high-risk economic activities and the specific entities engaged in illegal employment practices.

Until 2021, the construction industry was regarded as the most susceptible to illegal employment risks. However, since 2022, the transport sector has recorded the highest number of illegal employment cases involving third-country nationals. To enhance its efforts in preventing illegal employment, the State Labour Inspectorate implements various information and control measures. These include issuing warning and recommendation letters to employers identified as high-risk, followed by targeted inspections at selected companies. Additionally, the State Labour Inspectorate actively promotes awareness about the detrimental effects of illegal employment. This is achieved through organizing consultation events, participating in civic initiatives, supporting information campaigns led by the European Labour Authority, and producing educational materials like brochures.

Emerging challenges. Experts in the field point out that the language barrier and a general distrust of authorities among third-country nationals pose significant challenges in uncovering illegal employment cases. Inspectors often struggle to collect reliable evidence for pre-trial investigations. Additionally, the reluctance of third-country nationals to cooperate with the authorities enables employers engaged in illegal employment practices to escape punishment. Sanctioning employers for illegally employing third-country nationals is further complicated by the inconsistent statements from the illegally employed individuals or their absence in court proceedings. Often, by the time illegal employment cases are adjudicated, the third-country nationals involved are no longer in Lithuania, making it extremely challenging to obtain their testimony as witnesses.

Good practices identified. State Labour Inspectorate experts have recognised the establishment of the Risk Analysis Centre and the Joint Operations Centres as effective practices, fostering deeper inter-institutional collaboration at both central and local levels. They also highlight the 2021 amendments to the Law on Employment, which introduced legal liability for corporations involved in illegal employment practices. Moreover, the collaboration between public authorities and civil society initiatives is underscored as a commendable approach. Particularly notable is the cooperation between the State Labour Inspectorate and the Ukrainian Centre for Labour Rights Protection. This partnership focuses on preparing information in Ukrainian about the employment and rights of third-country nationals in Lithuania, exemplifying effective practice in this area.

1.

National legal and policy framework changes

Question 1. Is the prevention of illegal employment of third-country nationals a national priority in Lithuania?

- Yes, it is a national policy priority.
 No, it is not a national policy priority.
 Other.

In line with the Plan for the Implementation of the Provisions of the Programme of the Eighteenth Government of the Republic of Lithuania¹, approved in March 2021, the Minister of Finance introduced the Action Plan to Reduce the Shadow Economy and VAT Gap². A key component of this plan, Measure 13, involves evaluating the effectiveness of preventing illegal employment, including the temporary employment of third-country nationals. This measure also entails presenting proposals to the government for potential enhancements in the legal framework. Hence, it is evident that the prevention of illegal employment of third-country nationals is a high-priority national policy in Lithuania.

The effectiveness of the prevention of illegal employment is also being strengthened at inter-institutional level. In 2020, the State Labour Inspectorate of the Republic of Lithuania under the Ministry of Social Security and Labour (SLI) set up a working group for this purpose. The working group includes representatives from the SLI, the State Social Insurance Fund Board under the Ministry of Social Security and Labour (SODRA), the Employment Service under the Ministry of Social Security and Labour of the Republic of Lithuania (ES), the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania (STI), the Migration Department under the Ministry of the Interior of the Republic of Lithuania (MD), and the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania (SBGS). This working group has been instrumental in identifying challenges related to the employment of foreigners. They have proposed a range of legal and control measures to the Ministry of Social Security and Labour of the Republic of Lithuania (MSSL) to address these challenges. The group's efforts aim to streamline and enhance the effectiveness of the policies and practices regarding the employment of foreigners in Lithuania.

¹ Approved by Resolution No 155 of the Government of the Republic of Lithuania of 10 March 2021 on the Approval of the Plan for the Implementation of the Provisions of the Programme of the Eighteenth Government of the Republic of Lithuania <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/bef7d43286fe11eb998483d0ae31615c2?fwid=n4udyawj6>

² Order No 1K-137 of the Minister of Finance of the Republic of Lithuania of 6 October 2021 on the Approval of the Action Plan to Reduce Shadow Economy and VAT Gap <https://www.e-tar.lt/portal/lt/legalAct/639af17026a911ecad73e69048767e8c>

Question 2. Is there a current or has there been any recent public and/or policy debate since 2017 regarding illegal employment of third-country nationals in Lithuania?

- Yes.
 No.

There have been substantial debates, both in the Parliament and in the media, regarding employment of third-country nationals³. These debates frequently originate from the business community, with representatives advocating for the simplification of employment procedures for third-country nationals. They contend that the current processes are unclear and protracted, creating a climate of uncertainty. This uncertainty, they argue, often compels businesses to risk employing third-country nationals through illegal means, as the cumbersome official procedures can be a significant barrier to timely and efficient employment.

Since the onset of the war in Ukraine, discussions have also centred around integrating Ukrainians into Lithuania's labour market, with a significant emphasis on protecting them from potential exploitation. In response to the heightened risk of human trafficking among Ukrainians, the Commission for Coordination of the Fight against Trafficking in Human Beings took swift action in 2022. They implemented measures aimed at preventing this crime, such as enhancing anti-trafficking efforts in registration centres and improving risk analysis procedures. These initiatives reflect Lithuania's commitment to safeguarding vulnerable individuals, particularly Ukrainians seeking employment, from exploitation and trafficking amid the challenges posed by the conflict in their homeland⁴.

Question 3. What are the major changes to: a) law, b) policy and c) practice since 2017 regarding illegal employment of third-country nationals in Lithuania?

a) The major changes to law regarding illegal employment of third-country nationals are as follows:

- Effective from August 2019, Article 62(8) of the Law on the Legal Status of Foreigners⁵ introduced the obligation for employers, including companies to which a foreigner is posted for temporary employment or natural persons to whom a foreigner is posted for temporary employment, to **report information about the employed foreigner or the foreigner posted to Lithuania for temporary employment to the State Labour Inspectorate and the Employment Service** via the SODRA information system. This legal provision has significantly aided the authorities responsible for preventing illegal employment. It has streamlined the process of conducting control inspections of foreigners and has provided these authorities with comprehensive insights into the employment patterns of foreigners. They now have access to detailed information on where and when foreigners are employed and in what numbers;
- In April 2022, amendments to the Law⁶ and accompanying legislation were enacted, formally introducing a **transparent worker's identification code for individuals working on construction sites**. Consequently, the oversight of illegal employment involving third-country nationals and citizens of Lithuania on these sites has become significantly more effective and efficient.

³ Sources: <https://chamber.lt/renginiai/apskritojos-stalo-diskusija-treciuju-saliu-pilieciu-idarbinimas-lietuvoje-marijampoleje/>; <https://www.teise.pro/index.php/2019/08/27/ar-imanoma-laikytis-darbuotoju-is-treciuju-saliu-idarbinimo-lietuvoje-reikalavimu/>; <https://lvk.lt/2021/08/30/treciuju-saliu-pilieciu-idarbinimas/>; <https://ve.lt/verslas/seime-diskusija-apie-zmoniu-is-treciuju-saliu-idarbinima-lenkijoje-ir-lietuvoje>

⁴ Source: <https://vrm.lrv.lt/lt/naujienos/apartuos-priemones-apsaugoti-ukrainiecius-nuo-prekybos-zmonemis-pinkliu/>

⁵ Republic of Lithuania Law on the Legal Status of Foreigners, <https://www.e-tar.lt/portal/lt/legalAct/TAR.42837E5A79DD/asr>

⁶ Republic of Lithuania Law Amending Law No XIV-462 Amending the Title of Section Four of Law No I-1240 on Construction and Supplementing the Law with Article 221, <https://www.e-tar.lt/portal/lt/legalAct/5e31d980697811eca9ac839120c251c4>

b) The major changes to policy regarding illegal employment of third-country nationals are as follows:

- In its efforts to prevent and control illegal employment, undeclared work, undeclared self-employment, and violations of foreigners' employment procedures, the SLI has noticed a trend in recent years. Companies based in some EU and EFTA states have been posting third-country nationals to Lithuania without actually conducting any business activities. Inspections often reveal that these individuals are not genuinely employed by the posting companies and lack social insurance coverage. This leads to unpaid contributions in both countries, non-compliance with Lithuanian foreign employment procedures, and evasion of quota requirements. To address this issue, the SLI collaborated with experts from the Migration Department and the Employment Service to conduct a **remote training session** on 28 March 2022. This training, aimed at the SLI's division inspectors, focused on the legal stay and employment of foreigners. It also explored strategies to strengthen the monitoring of illegal employment and forced labour.

c) The major changes to practice regarding illegal employment of third-country nationals are as follows:

- On 1 August 2020, established a **pilot specialized task force at its Vilnius territorial division dedicated to combating trafficking in human beings for forced labour**. The primary responsibility of this task force is to analyse reported instances of forced labour, gather and organize information about these cases, collect evidence, and forward it to the relevant pre-trial investigation authorities. This task force collaborates with NGOs and police officers specializing in the control and prevention of human trafficking. In 2021, the task force completed and submitted four forms for identifying trafficking victims, along with annexes, to the pre-trial investigation authorities. Encouraged by the task force's effectiveness, the SLI **launched another specialized task force with a similar focus at its Kaunas territorial division** on 1 June 2022.

Question 4. Please briefly describe and indicate if any new changes are planned to: a) law, b) policy and c) practice in the future.

a) The following changes to law are planned:

- The Ministry of Social Security and Labour is currently developing a **draft law to amend Articles 55-61 of the Law on Employment⁷ in order to revise existing financial sanctions imposed on individuals for illegal employment, undeclared work and violations of the employment procedure of foreigners.** The proposed legislation suggests a substantial increase in penalties for illegal employment, including the illegal employment of foreigners. The plan is to levy a fine on employers ranging from 2 to 3% of the employer's annual gross world income from the previous financial year. The minimum fine would be equivalent to three times the minimum monthly wage set by the Government of the Republic of Lithuania for each person illegally employed, with a cap of EUR 500,000. In cases of violating procedures for employing foreigners and reporting employed or temporarily posted foreigners, employers or the companies to which foreigners are posted are subject to fines between one and two times the minimum monthly wage, as outlined in the Law on Employment. For undeclared work, the proposed fines range from one to three times the minimum monthly wage. This significant increase in fines is intended to deter employers from engaging in illegal employment and undeclared work, while enhancing the effectiveness and efficiency of the sanctions.
- Is committed to ongoing **monitoring of the labour market and consulting with pertinent authorities** on potential improvements to the legal framework.

b) No changes are planned to the policy related to illegal employment of third-country nationals.

c) No changes are planned to the practice related to the illegal employment of third-country nationals.

2.

Introduced
prevention
measures

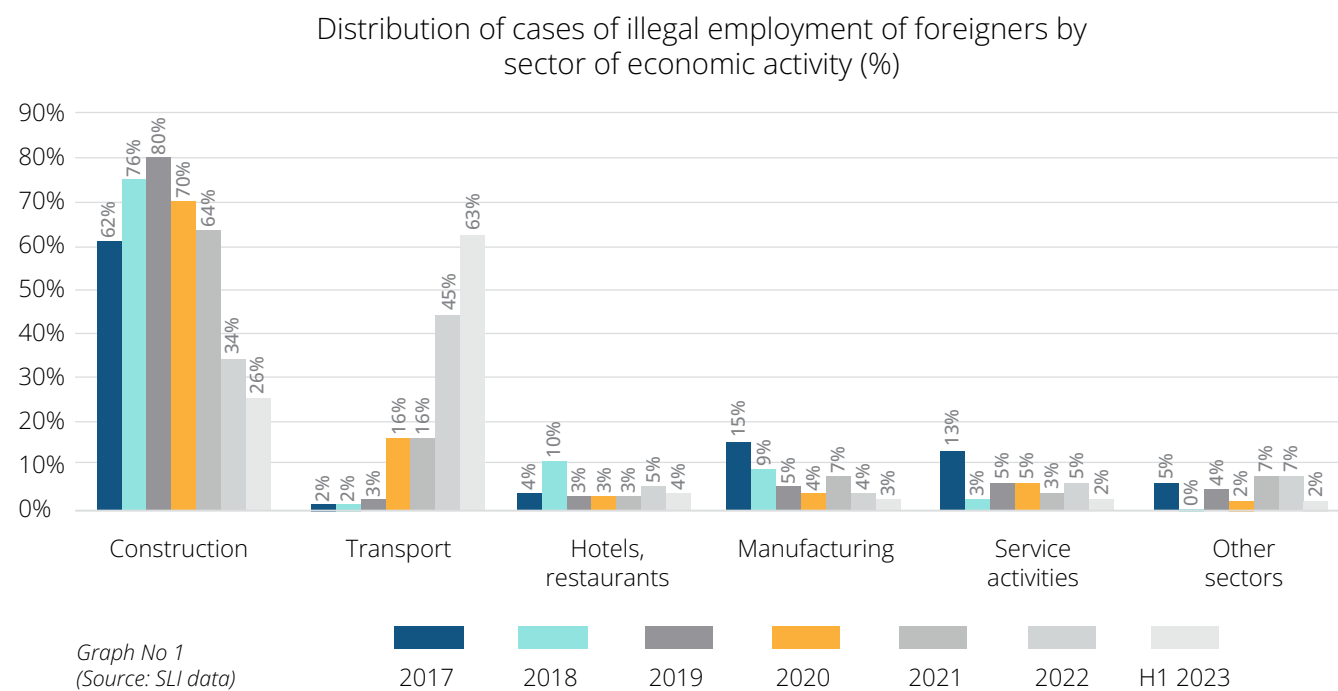
⁷ Draft Republic of Lithuania Law Amending Articles 2, 4, 51, 16, 17, 20, 24, 25, 301, 302, 31, 32, 35, 38, 393, 40, 41, 42, 43, 44, 45, 47, 48, 481, 50 and Chapter IV of Law No XII-2470 on Employment, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAP/5a73ad8056f911ee8e3cc5ee348ebf6d?positionInSearchResults=1&searchModelUUID=05b08910-cdc7-432b-9667-6c69fac8a6c9>

Question 5. Does Lithuania monitor specific economic sectors regarding the prevention of illegal employment of third-country nationals?

Yes.

No.

Annually, the SLI creates a list identifying sectors of the economy at high risk for illegal employment, based on the frequency of such occurrences. Between 2017 and 2021, the construction industry was deemed the sector with the highest risk. However, starting from 2022, the long-haul transport sector has emerged as the industry recording the largest number of illegal employment cases involving third-country nationals.



Question 6. Has Lithuania carried out new risk assessments to identify sectors of activity in which the illegal employment of third-country nationals is most concentrated since 2017?

Yes.

No.

To pinpoint sectors where illegal employment of third-country nationals is most prevalent, Lithuanian authorities have conducted fresh risk assessments. In March 2019, a new collaborative model was introduced, involving control and law enforcement authorities, including the Risk Analysis Centre (RAC) and Joint Operations Centres (JOCs). This developing model involves a coordinated effort from various authorities - such as the State Tax Inspectorate (STI), the State Border Guard Service (SBGS), the State Labour Inspectorate (SLI), the police, and the Financial Crime Investigation Service (FCIS) - who adopt an integrated approach to addressing the shadow labour market as a part of the wider shadow economy. This approach involves active pursuit of coordinated control and prevention measures, along with prompt sharing of important information and data. Such collaboration is vital for identifying high-risk economic activities and entities involved in them.

In its role of preventing illegal employment, the Risk Analysis Centre executes tasks within its scope by performing several key functions:

1. To identify patterns, trends, and underlying causes of suspected violations of tax laws, regulations, crimes against the financial system, economy, and business order, and related crimes, it **compiles and summarizes data** available to authorities on the situation across various economic sectors;
2. It **plans and coordinates the analytical activities** of authorities, such as the preparation of thematic analyses, and also directly conducts these analyses;
3. It **identifies sectors of economic activity that are high-risk** in terms of tax evasion and non-compliance with other statutory requirements, as well as targeting groups of economic entities/taxpayers and high-risk individuals;
4. **Makes recommendations** on setting priorities for joint activities aimed at reducing the shadow economy;
5. Upon identifying high-risk taxpayers (or their groups/segments), it **prepares advice for authorities** on the most effective actions to take against them, establishes targets, and defines criteria for evaluating their achievement;
6. **Organises and coordinates mutual assistance** in investigating cases of alleged tax evasion or crimes against the financial system, whether detected by other authorities or the RAC itself;
7. It **compiles and presents the results** of the Joint Operations Centres' (JOCs) activities, which are responsible for implementing measures to reduce the shadow economy at the regional level;
8. **Proposes measures and/or incentives** to reduce the shadow economy.

The Risk Analysis Centre has designated specific responsibilities and leadership roles to various authorities in different areas of activity:

1. State Tax Inspectorate (STI) – Focused on the prevention and detection of tax evasion;
2. Customs and the State Border Guard Service (SBGS) – Responsible for preventing the illegal disposal and smuggling of excise goods;
3. State Labour Inspectorate (SLI) – Tasked with the prevention and detection of illegal employment and undeclared work;
4. State Food and Veterinary Service (SFVS) – Concentrated on ensuring food safety;
5. Police and the Financial Crime Investigation Service (FCIS) – Dedicated to the prevention and detection of crimes against the financial system and other related criminal activities.

When high-risk taxpayers are identified by the Risk Analysis Centre, they are referred to the five Joint Operations Centres for further action. These Centres conduct joint control inspections involving authorities that have jurisdiction or interest within their scope of responsibilities.

Question 7. What are the profiles of employers (i.e., type of enterprise: small, medium, large; type of industry/sector) that have been found to have engaged in illegal employment schemes of third-country nationals in Lithuania?

During the reviewed period, illegal employment practices involving third-country nationals were most commonly found in businesses operating within the construction or transport sectors. The construction sector is primarily characterized by the prevalence of small or medium-sized enterprises. Conversely, in the transport sector, this kind of dominance by specific types of businesses, as seen in the construction sector, is not evident.

In recent years, there has been a trend of Polish companies posting Ukrainian workers to the construction sector in Lithuania. During inspections by the SLI, when third-country workers without social insurance coverage in Lithuania are identified, they are asked to provide evidence of their employment with Polish companies and their assignment to work for entities in Lithuania. The SLI staff also request to see contracts between the Polish and Lithuanian companies, posting orders, and other relevant documents. However, these inspections often reveal that the third-country nationals suspected of illegal employment were never actually employed by Polish companies but arrived directly from Ukraine. It is important to note that these individuals frequently live and work in substandard, inhumane conditions, are not fully compensated, and are often unaware of their rights.

Question 8. What measures and/or incentives are in place to

a) prevent employers from engaging in the illegal employment of third-country nationals;

b) prevent third-country nationals from becoming illegally employed?

a) To deter employers from illegally employing third-country nationals, and in light of the amendment to the Law on the Legal Status of Foreigners effective from 1 March 2021, the SLI took proactive measures. This amendment mandates employers and companies hosting foreigners for temporary employment to report these workers to the State Labor Inspectorate. In response, the SLI composed and **dispatched approximately 100 warning/recommendation letters in 2021 to high-risk employers** with posted third-country workers. These letters clarified the employers' reporting obligations to the SLI and the penalties for non-compliance. Following the letter distribution, the SLI **conducted control inspections at about 30 selected companies**. These inspections aimed to assess whether the companies had altered their practices and to check for any infringements related to the employment of third-country nationals.

Additionally, the SLI **hosted a webinar** on 10 March 2022 on its Facebook account, focusing on the entry and employment conditions for foreigners fleeing Ukraine. This webinar featured experts from the Employment Service and the Migration Department, who provided essential information on the legal requirements for staying and working in Lithuania. The event garnered significant attention from employers, evidenced by the substantial viewership it received, reaching 8,400 views.

b) To combat the illegal employment of third-country nationals and as part of its efforts to prevent such activities, the SLI annually organizes **consultation events**. These events focus on educating participants about the negative impacts of illegal employment. A significant aspect of these events includes educational sessions for young people. During these sessions, the importance of having an employment contract is emphasized, and other relevant questions are addressed to equip individuals with the knowledge necessary for safe and legal employment.

Since 2017, the SLI has been **actively involved in the annual civic initiative** titled "There is No Place for Shadow in this Country." Furthermore, since 2018, following a cooperation agreement with the "White Wave" transparent business initiative, the SLI has officially become a partner in this campaign. The primary objective of "There is No Place for Shadow in this Country" is to encourage Lithuanian citizens to recognize the detrimental impact of the shadow economy on the nation as a whole and on each individual citizen. This initiative aims to raise awareness and promote transparency in economic activities.

Since 2021, the SLI has **contributed to information campaigns run by the European Labour Authority:**

- The 2021 "Rights for All Seasons" campaign was specifically focused on seasonal work. Its objective was to inform seasonal workers about their rights and to educate employers about their obligations, ensuring fair working conditions across the EU.
- The "Road to Fair Transport" campaign in 2022 was designed to elaborate on the changes brought about by the EU's Mobility Package I in legislation. Its objectives included raising awareness among drivers and employers about their rights and obligations, as well as offering comprehensive materials and advice on various aspects related to the road transport sector.
- The "Posted Workers in the Construction Sector" campaign in 2023 focuses on educating posted workers about their rights and informing employers about their obligations. The campaign aimed to ensure fair working conditions throughout the European Union, particularly in the construction sector.

In response to the outbreak of war in Ukraine, the SLI prepared summary information (brochures) on the conditions of employment in Lithuania for nationals of Ukraine, their family members and stateless persons residing in Ukraine who have fled from Ukraine to the Republic of Lithuania as a result of the military actions of the Russian Federation and for those who have temporarily left the territory of Ukraine before 24 February 2022 and have not been able to return to the territory of Ukraine as a result of the military actions of the Russian Federation in Ukraine. The brochures were prepared in the Lithuanian, Ukrainian, English, and Russian languages. Moreover, detailed information on working conditions in Lithuania (requirements for legal employment, remuneration conditions and payment procedure, working and rest periods, etc.) was translated, and the form of an employment contract, the form of a complaint to the SLI and the form of an application filed with a labour dispute commission (LDC), with detailed instructions on how to fill them in, were presented.

Question 9. What 1) challenges and 2) good practices can be identified in Lithuania in prevention of illegal employment of third-country nationals?

In the course of this research, experts from national authorities were interviewed, leading to the identification of both challenges and good practices:

- 1) One of the challenges that Lithuania encounters in the prevention of illegal employment of third-country nationals is **the absence of a unified national prevention strategy**. Currently, each authority is responsible for implementing prevention measures within its own jurisdiction, leading to a fragmented approach. Additionally, there is **a shortage of allocated resources**, which hinders the effectiveness of prevention efforts.
- 2) Starting in 2018, there has been a noticeable increase in the employment of Ukrainian nationals in the Republic of Lithuania. This trend has led to a rise in the detection of cases of illegal employment by authorities such as the SLI. To address this situation, **the SLI initiated collaboration with the public institution Ukrainian Centre for Labour Rights Protection**. This partnership has resulted in the preparation of information materials in the Ukrainian language, focusing on the employment of third-country nationals and their rights in the Republic of Lithuania.

3.

Identification of
implemented
illegal employment
measures

Question 10. Have there been developments to improve the identification of illegal employment of third-country nationals taken place in Lithuania since 2017 (i.e., new offices/agencies being introduced, increased number of inspections or other)?

Yes.

No.

In March 2019, Lithuania introduced **a new collaborative model involving control and law enforcement authorities**, consisting of the Risk Analysis Centre and Joint Operations Centres. One of the key functions of this model is the prevention of illegal employment of third-country nationals.

In August 2020, **a pilot specialized task force of inspectors was established at the SLI's Vilnius territorial division** with the primary objective of combating trafficking in human beings for forced labour. The success of this task force led to the creation of **another similar task force at the SLI's Kaunas territorial division** in June 2022. These task forces are primarily responsible for analysing alleged cases of forced labour, collecting and organizing information related to these cases, gathering evidence, and subsequently transmitting this evidence to the appropriate pre-trial investigation authority.

Question 11. How many inspections are carried out per year (in absolute numbers and as a percentage of employers for each sector)?

The State Labour Inspectorate (SLI) places a strong emphasis on the control and prevention of illegal employment and related activities, considering it a top-priority area. Consequently, the SLI conducts targeted inspections of high-risk economic entities to uncover instances of illegal employment and violations of working and rest time accounting. The overarching goal of these measures is to enhance the effectiveness of the SLI's efforts, reduce the presence of the shadow labour market, and foster public intolerance towards illegal employment. Control measures and preventive actions are employed with the primary aim of dissuading businesses from participating in illegal employment and related activities.

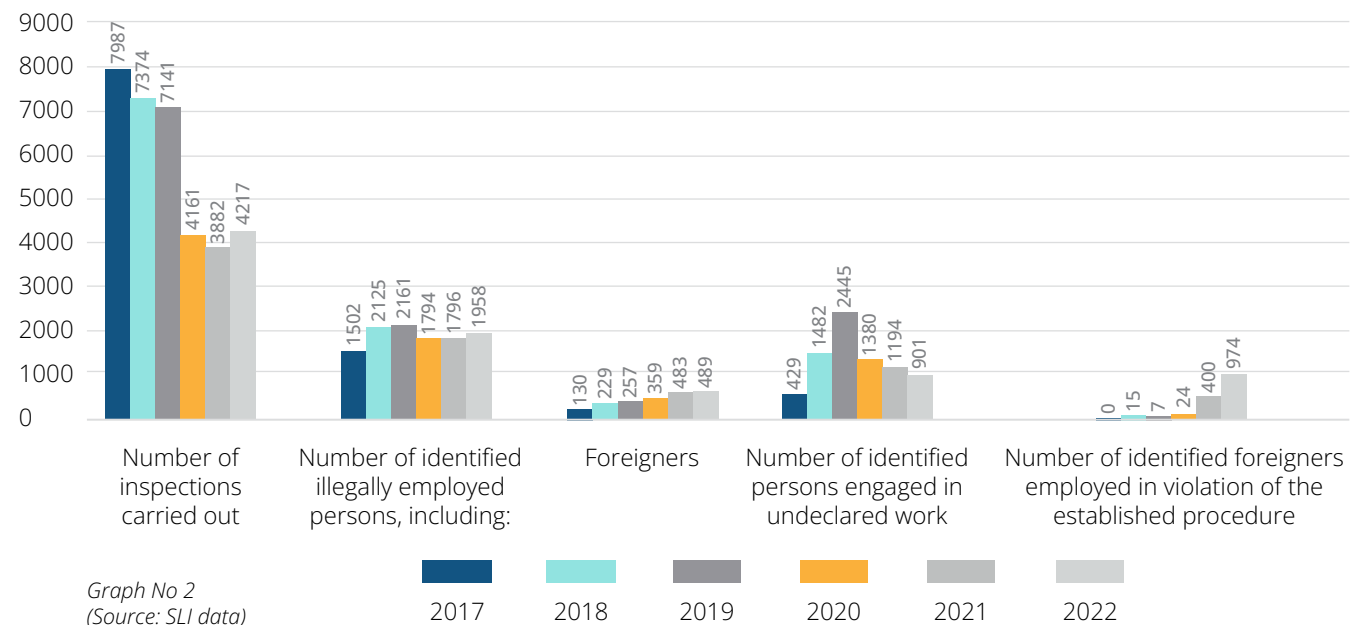
In pursuit of this objective, the State Labour Inspectorate (SLI) conducted a total of **4,217 inspections in 2022**, focusing on illegal employment, undeclared work, employment procedure for foreigners, and undeclared activities in a self-employed capacity. It's worth noting that compared to 2017, the number of inspections carried out by the SLI in 2022 has nearly halved. This shift can be attributed to a deliberate change in the SLI's control policy, prioritizing quality over quantity. For instance, in 2017, the SLI conducted 7,987 inspections related to illegal employment, leading to the identification of 1,502 individuals employed illegally. However, in 2022, despite conducting half as many inspections, there was an increase of 456 more cases of illegal employment detected compared to 2017.

In 2022, in the course of illegal employment control actions, the SLI identified 489 illegally employed third-country nationals (483 in 2021; 359 in 2020; 257 in 2019; 229 in 2018; 130 in 2017), which accounts for 24.97% (29.90% in 2021; 20.01% in 2020; 11.89% in 2019; 10.78% in 2018; 8.66% in 2017) of the total number of illegally employed persons.

Graph No 1 (provided in the response to Q5) illustrates that in 2022, the highest number of instances of illegal employment involving third-country nationals occurred in the transport sector, accounting for 45% of the total cases. Additionally, inspectors from the State Labour Inspectorate (SLI) also focused on other sectors of economic activity, with the construction sector representing 34% of the total cases of illegal employment in 2022. Other sectors of concern included hotels and restaurants (5% in 2022), service activities (5% in 2022), and manufacturing (4% in 2022).

During the period from 2017 to 2022, five sectors of economic activity have consistently exhibited a potential for high-risk employers and illegal employment, as observed by authorities. Additionally, there has been a steady trend of illegal employment of third-country nationals over this period. Comparatively, illegal employment of third-country nationals increased by 276% in 2022, rising from 130 cases in 2017 to 489 cases in 2022.

Results of illegal employment control inspections

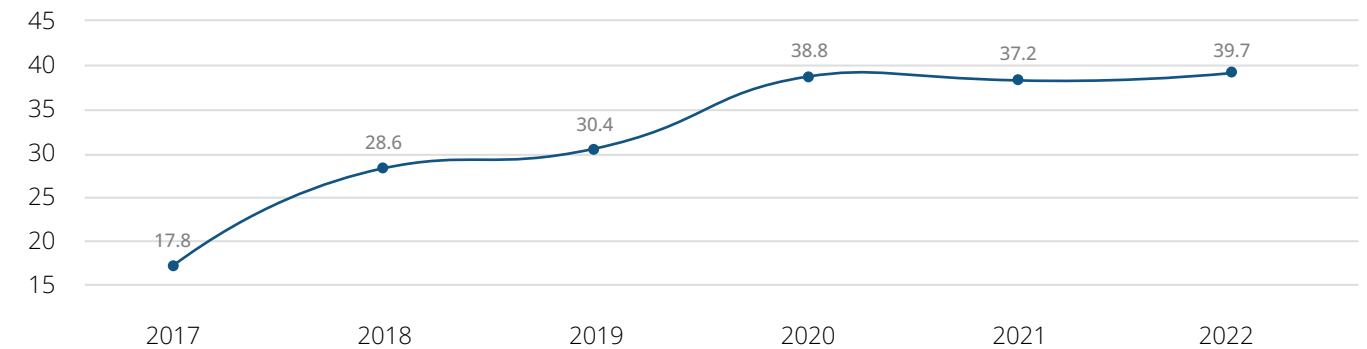


Question 12. Have there been measures put in place by Lithuania to ensure that the inspections carried out to detect cases of illegal employment of third-country nationals are effective and adequate?

To enhance the effectiveness of controlling illegal employment and achieve set targets, the **preparation for illegal employment control inspections has been strengthened**. This includes advanced analysis of available data and information by both the SLI and other control authorities. High-risk economic entities and objects are carefully selected for inspections. Notably, in the identification of high-risk construction sites where illegal employment may occur, SLI inspectors actively monitor these sites. They collect and analyse information, assess potential risks, and employ unmanned aerial vehicles (drones) for site surveillance. The use of these tools facilitates proper recording, investigation, and detection of administrative offenses and other violations. Since 2021, unmanned aerial vehicles (drones) have been employed by all territorial divisions of the SLI.

The effectiveness of illegal employment controls is assessed by examining the ratio of the number of cases in which inspectors of the SLI identify persons who have been illegally employed or are employed in violation of the employment procedure of foreigners to the number of the inspections of illegal employment carried out by the inspectors of the SLI. Between 2017 and 2022, there was an **increase in the effectiveness of illegal employment controls**, which can be attributed to improved preparation for illegal employment control inspections. Compared to 2017, the effectiveness of illegal employment controls in 2022 increased nearly twofold, from 17.8% in 2017 to 39.7% in 2022.

Effectiveness of control of illegal employment

Graph No 3
(Source: SLI data)

Question 13. Do the national authorities and other relevant organisations cooperate to identify situations of illegal employment of third-country nationals in Lithuania? Has Lithuania introduced any specific cooperation mechanisms since 2017 (i.e., partnerships with IGOs, NGOs or other)?

Inter-institutional cooperation has been reinforced to enhance the identification of cases involving the illegal employment of third-country nationals. Since 2018, inspectors from the SLI have **collaborated annually with officers from the Police Department under the Ministry of the Interior in joint actions organized by Europol**. These joint actions are focused on the prevention and control of trafficking in human beings for the purpose of forced labour.

Inter-institutional cooperation has also been strengthened through the development of new formats. In March 2019, a **new model of joint working between control and law enforcement authorities** (Risk Analysis Centre and Joint Operations Centres) was launched. In this model, all relevant authorities, including the STI, SBGS, SLI, police, FCIS, and others, take a comprehensive approach to addressing the shadow labour market, which includes illegal employment of third-country nationals. This integrated approach allows for coordinated measures in control and prevention efforts to combat illegal employment and related issues effectively.

Question 14. Has Lithuania pursued international/European cooperation initiatives to identify cases of the illegal employment of third-country nationals since 2017 (i.e., cooperation agreements or practises between two or more countries)?

Yes.

No.

The following bilateral cooperation initiatives were implemented in Lithuania during the period under review:

- On December 12, 2016, **the State Labour Inspectorate and the State Employment Service of Ukraine signed a cooperation protocol.** This protocol aimed to foster continued and enhanced relations between the two countries and promote cooperation in areas such as occupational safety, health, and labour legislation.
- On May 30, 2017, **the State Labour Inspectorate of Lithuania and the Labour Inspection Authority of the Kingdom of Norway signed an agreement on cooperation and mutual exchange of information.** The primary objectives of this agreement are to ensure the effective protection of working conditions for workers, including those who are posted from one country to another or travel for employment purposes. It also aims to eliminate factors that contribute to workplace accidents and occupational diseases. As part of the agreement, both parties committed to sharing information on labour and occupational safety and health laws and regulations, exchanging expertise and best practices, and conducting joint control actions.
- On March 17, 2020, the **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** entered into force. This agreement is aimed at enhancing cooperation between the two parties and providing mutual assistance to safeguard the rights and interests of workers in both countries. One of the key objectives of the agreement is to combat illegal employment and promote lawful labour migration between the Republic of Lithuania and Ukraine.

The following European cooperation initiatives were implemented in Lithuania during the period under review:

- Since the establishment of the European Platform tackling undeclared work in 2016, the **SLI has actively participated in its activities**, both in the exchange of good practices in the fight against illegal employment and in joint inspection activities.
- Since 2017, SLI inspectors have **participated every year in joint inspections with inspectorates of other EU countries.** The joint inspection actions aim not only at exchanging good practices, but also detecting cases of undeclared work and highlighting schemes used by employers when posting workers to other EU countries. It should be noted that third-country nationals are often identified among posted workers.
- With the establishment of the European Labour Authority (ELA) on 31 July 2019 and the European Platform tackling undeclared work becoming a working group of the ELA, **participation in the Platform has continued.** Lithuania also participates in all other active working groups of the ELA, such as those on information and inspections.

Question 15. What 1) challenges and 2) good practices can be identified in Lithuania in the area of the identification of illegal employment of third-country nationals since 2017?

Experts from national authorities interviewed in this research identified these challenges and good practices:

1. The **language barrier and a lack of trust in public authorities among third-country nationals** is identified as one of the biggest challenges that Lithuanian authorities face when trying to uncover instances of foreign nationals engaging in illegal employment. The language barrier issue is particularly acute when foreigners do not speak Russian or English. Gathering evidence from such individuals and determining their actual circumstances can be extremely challenging.

Another pressing issue identified by experts is the **lack of trust in public authorities among nationals who have come to Lithuania from post-Soviet countries.** These individuals often hold the belief that Lithuania, like their home countries, suffers from a high level of public sector corruption. Consequently, they are less inclined to reach out to Lithuanian authorities and are hesitant to report workplace violations.

2. The **establishment of the Risk Analysis Centre (RAC) and the Joint Operations Centres (JOCs) and their activities** are considered as good practices. This new form of inter-institutional cooperation, which operates at both the central and territorial levels, garnered positive feedback from SLI representatives right from the outset. They believed that a comprehensive approach to combating illegal employment would yield favourable outcomes⁸. It should be noted that prior to the establishment of the RAC and the JOCs, inter-institutional cooperation was already functioning relatively smoothly. However, the new model has taken cooperation to a new level by incorporating collaborative efforts in the selection of high-risk sectors within the economy and conducting targeted risk assessments of entities.

⁸ Source: https://www.vdi.lt/Forms/Tekstas1.aspx?Tekstai_ID=2176

4.

Sanctions introduced for employers

Question 16. Has Lithuania amended legislation on sanctions to employers for illegally employing third-country nationals since 2017?

Yes.

No.

The Law on Employment⁹, which entered into force in July 2017, **provides for legal persons' liability** for illegal employment, undeclared work, undeclared activities in a self-employed capacity and violations of the employment procedure of foreigners. Prior to the adoption of the Law, legal persons were not held liable for the abovementioned violations.

In 2022, compared to 2020-2021, there was a significant increase in the number of foreigners employed in violation of the established employment and information procedure (see the graph in the answer to Question 11). This change can be attributed to the amendment to Article 57 of the Law on Employment¹⁰, which entered into force on 15 June 2021. The adopted amendment establishes **legal liability for organizations in cases of violations related to reporting employed foreigners or foreigners** posted to the Republic of Lithuania for temporary employment. Specifically, if an employer, who is a legal entity, fails to submit information about an employed foreigner or a posted foreigner through the SODRA information system to the SLI, the SLI has the authority to impose fines ranging from EUR 200 to EUR 400 on the said legal entity.

Question 17. What 1) challenges and 2) good practices can be identified in Lithuania in the area of sanctioning employers for illegal employment of third-country nationals since 2017?

Experts from national authorities interviewed in this research identified these challenges and good practices:

- 1) Challenges arise for authorities when **seeking explanations from third-country nationals**, as they frequently provide contradictory statements, particularly when interviewed at the scene of a violation. Additionally, a common obstacle is that **many third-country nationals are no longer present** in the Republic of Lithuania when cases involving illegal employment are brought to court. Consequently, it becomes virtually impossible to question them as witnesses in such proceedings.
- 2) The amendments to the Law on Employment of June 2021, which **provide for legal persons' liability** for illegal employment, undeclared work, undeclared activities in a self-employed capacity and violations of the employment procedure of foreigners, are considered by the experts as a good practice. It should also be noted that the liability imposed on employers encompasses not only fines but also other financial sanctions. These additional sanctions may involve restrictions on participating in public procurement, limitations on the right to receive subsidies, benefits, or other forms of state aid, including support from the European Union structural funds and other assistance. Moreover, employers may be obligated to repay some or all of the subsidies, benefits, or other state aid, including support from the European Union structural funds and other assistance, that were granted within the 12 months leading up to the identification of illegal employment.

⁹ Republic of Lithuania Law on Employment, <https://www.e-tar.lt/portal/lt/legalAct/422c8b5042b811e6a8ae9e1795984391>

¹⁰ Republic of Lithuania Law Amending Articles ⁵⁶ and ⁵⁷ of Law No XII-2470 on Employment, <https://www.e-tar.lt/portal/legalAct.html?documentId=ad45bdf0cd0d11eba2bad9a0748ee64d>

5.

Outcomes for third-country nationals

Question 18: If a situation of illegal employment is detected, please describe the outcome (regularisation, detention, return, other) that applies to the following categories of employees:

- a) Third-country nationals with a residence permit and a work permit.
- b) Third-country nationals with a residence permit but without a work permit.
- c) Third-country nationals without a residence permit and a work permit.

If a situation of illegal employment of third-country nationals is detected:

a) For third-country nationals who are in possession of a residence permit and a work permit – the authority, acting in accordance with Article 56(5) of the Law on Employment, 1) obligates the employer to terminate the employment relationship with the illegal worker within 3 working days from the adoption of the relevant decision; 2) obligates the employer to pay to the illegal worker the agreed remuneration for work, unless this remuneration has already been paid; 3) obligates the employer to pay all the costs of transfer of the amounts provided for in this paragraph to the country to which the third-country national has returned or has been returned and the costs of return of the third-country national; 4) imposes on the employer, in accordance with the procedure laid down in this Law, a fine in the amount of EUR 868 to EUR 2,896 for each illegally employed person. The same actions committed by an employer who has already been punished for this violation within the preceding two years are punishable by a fine in the amount of EUR 2,896 to EUR 5,792 for each illegally employed person; 5) under the conditions and in accordance with the procedure laid down in a data provision agreement, transmits information on the person who is or was illegally employed (his/her full name, personal number (if the person has no personal number, his/her date of birth), the date of commencement of illegal employment, the name and registration number of the employer's legal person, the full name and personal number of the person representing the legal person (if the employer is a natural person, his/her full name and personal number)) to the Migration Department.

b) For third-country nationals who are in possession of a residence permit but are not in possession of a work permit – the procedure is the same as in case a).

c) For third-country nationals who are not in possession of a residence permit and a work permit – in addition to all the measures mentioned in case a), the authority must inform the SBGS about the third-country national who is or has been illegally employed, and the SBGS in turn carries out further procedures in accordance with the provisions of the Description of the Procedure for Taking and Enforcing Decisions Regarding a Foreigner's Obligation to Leave, Expulsion, Return and Passing in Transit through the Territory of the Republic of Lithuania¹¹.

¹¹ Order No 1V-429 of the Minister of the Interior of the Republic of Lithuania of 24 December 2004 on the Approval of the Description of the Procedure for Taking and Enforcing Decisions Regarding a Foreigner's Obligation to Leave, Expulsion, Return and Passing in Transit through the Territory of the Republic of Lithuania, <https://www.e-tar.lt/portal/lt/legalAct/TAR.6D1D7406D3E8/asr>

Question 19a. What effective procedures are in place to allow third-country nationals in illegal employment to lodge complaints against their employer?

In accordance with the Rules of the State Labour Inspectorate for the Examination of Applications and Complaints and the Service of Persons at the State Labour Inspectorate¹², applications, complaints or enquiries are not accepted if they are written in a language other than the state language or are not accompanied by a translation into the state language. **However, an exception is made for applications filed in either the English or Russian language.**

Enquiries are also accepted in languages other than the state language, English, and Russian when they are submitted in writing by a foreign state institution or an international organization to the SLI.

Applications, complaints, or enquiries can be submitted to the State Labour Inspectorate through various means, including **in person at their offices, by postal mail, or electronically.** The SLI also accepts applications, complaints or enquiries submitted on behalf of illegally employed third-country nationals.

Question 19b. Are there different procedures in place to lodge complaints against employers if the third-country nationals in illegal employment are irregularly staying?

In accordance with the Rules for the Examination of Applications and Complaints and the Service of Persons at the State Labour Inspectorate, the State Labour Inspectorate **does not assess the lawful residence status of third-country nationals who have submitted an application, complaint, or enquiry.**

Question 20. In which cases can a third party (for instance a trade union or an association) engage on behalf or in support of third-country nationals in illegal employment in administrative or civil proceedings against an employer? Are there differences between engaging on behalf of regularly and irregularly staying third-country nationals?

Pursuant to the provisions of Article 2.137 of the Civil Code of the Republic of Lithuania, **persons have the right to authorise a third party** (a trade union, an association) **to initiate administrative or civil proceedings against the employer**¹³.

The SLI accepts applications, complaints or enquiries submitted on behalf of illegally employed third-country nationals. In accordance with the provisions of Article 165 of the Labour Code, social partners may represent third-country nationals at meetings of a labour dispute commission¹⁴.

¹² Rules of the State Labour Inspectorate of the Republic of Lithuania for the Examination of Applications and Complaints and the Service of Persons at the State Labour Inspectorate of the Republic of Lithuania, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/1c2881bb7396911eabd71c05e81f9716>

¹³ Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Civil Code. Civil Code, <https://www.e-tar.lt/portal/lt/legalAct/TAR.9A39C83848CB/asr>

¹⁴ Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code, <https://www.e-tar.lt/portal/lt/legalAct/f5d686707e7011e6b969d7ae07280e89/asr>

Question 21. Are there mechanisms in place in your country for the remuneration of a third-country national following a period of illegal employment (i.e., mechanisms to recover payment for overtime work) and what are the conditions for remuneration? Are there different mechanisms in place for regularly and irregularly staying third-country nationals?

Pursuant to Article 56(8) of the Law on Employment¹⁵, persons who were illegally employed **have the right to claim unpaid remuneration for work** for the resolution of labour disputes in accordance with the procedure laid down in the Labour Code.

Third-country nationals may file applications with labour dispute commissions in the state language (Lithuanian), as well as in the Russian or English language. They may also authorise a third party (a trade union or an association) to file an application and represent them at meetings of the labour dispute commissions.

The mechanisms put in place by the SLI do not differentiate between regularly and irregularly staying third-country nationals.

Question 22. How long does the presumed employment relation have to be for an employer to have to pay back outstanding remuneration and amounts equal to taxes or social security contributions?

Pursuant to Article 56(1) of the Law on Employment, illegal employment is considered to be work performed for remuneration by a natural person (an employee) being subordinate to another person (an employer) for the benefit of the latter, where the employer has not concluded an employment contract in writing or has not given a notification of the hiring of the employee to the territorial office of SODRA at least one working day prior to the start of the work, or where the person performing the work is a third-country national who is employed in violation of the procedure laid down in the regulatory acts governing the employment of third-country nationals.

Based on this provision, a person who works at least for one day without having concluded an employment contract or without having given a notification to SODRA or who has been employed in violation of the procedure laid down in the regulatory acts governing the employment of third-country nationals would be considered to be an illegal worker, and the employer would be subject to administrative liability for illegal employment. Pursuant to Article 56(4) and (5) of the Law on Employment, **the employer must pay the agreed remuneration for work to the illegal worker** (for all days during the period of illegal employment), unless this remuneration has already been paid. Once the outstanding remuneration has been paid, the personal income tax and social security contributions payable on the remuneration must also be paid.

¹⁵ Republic of Lithuania Law on Employment: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/b9ca8ad03de611e68f278e2f1841c088/asr>

Question 23. Are there mechanisms in place to ensure that irregularly staying third-country nationals can receive any back payment of remuneration in cases in which they have been returned?

In all cases, persons who were illegally employed **have the right to claim unpaid remuneration for work** for the resolution of labour disputes in accordance with the procedure laid down in the Labour Code of the Republic of Lithuania (Article 56(8) of the Law on Employment).

A labour dispute commission's meetings are also conducted remotely, so that third-country nationals can take part in the meetings remotely when they are not present in Lithuania or they can be represented by third parties (trade unions or associations).

Question 24. Does Lithuania provide information to illegally employed third-country nationals on their rights? Is this information translated? Does the information provided differentiate between regularly and irregularly staying third-country nationals?

The SLI **offers illegally employed third-country nationals all relevant information regarding their rights and responsibilities.** Additionally, this information has been translated into English, Russian, and Ukrainian languages to facilitate accessibility and understanding.

6.

Conclusions

Question 25. Please synthesise the main and most important findings of the national report by drawing conclusions.

One of the key objectives of the Government of the Republic of Lithuania is to establish a fair competitive environment. This objective is achieved through several means, including the assessment of specific economic sectors where significant shadow economic activities have been identified. Additionally, efforts are made to draft legislation aimed at reducing shadow economic activities, ensuring effective coordination among various institutions, and fostering cooperation with social partners. These measures to reduce the shadow economy primarily aim to protect individuals who engage in legitimate employment, business operations, and other lawful activities.

The Government of the Republic of Lithuania takes a comprehensive approach to the issue of the shadow economy. This approach encompasses not only considerations related to budget revenue and tax collection but also emphasises the significance of preventing illegal employment and fostering an anti-corruption environment. Moreover, it emphasizes the adoption of modern information technology and management solutions in both the public and private sectors, the reduction of administrative burdens and bureaucratic processes, and increasing public awareness as essential elements in promoting fair and transparent practices.

The Lithuanian population continues to exhibit a relatively high level of tolerance toward illegal employment. In light of this, authorities responsible for overseeing and controlling illegal employment recognize the importance of not only imposing sanctions but also focusing on prevention measures. They place significant emphasis on prevention efforts, including educational initiatives among youth, such as providing lessons in schools and lectures at universities to raise awareness about the harmful consequences of illegal employment and the rights of employees. Furthermore, they distribute information leaflets to third-country nationals to educate them about their rights as migrant workers and direct them to the appropriate authorities for assistance. Additionally, prevention is reinforced by organizing seminars for employers to educate them on the proper procedures for employing foreigners.

However, experts from the State Labour Inspectorate have pointed out that there is currently a lack of a unified national prevention strategy specifically targeting illegal employment of third-country nationals. Prevention efforts are distributed among various authorities, each responsible for implementing them within their own jurisdiction, and these initiatives often suffer from limited resources. Consequently, in the present circumstances, it appears that it may take a considerable amount of time to effectively shape public awareness regarding the adverse impacts of illegal employment on employees, employers, and the state.

In the context of preventing illegal employment in Lithuania, the creation of the Risk Analysis Centre (RAC) and the Joint Operations Centres (JOCs) stands out as a positive example of effective inter-institutional cooperation. Public authorities operating within these structures work together to coordinate supervision and control priorities, identify potential threats to the public finance system, and address the underlying conditions that contribute to the emergence of the shadow economy.

In Lithuania, the shadow economy accounts for a significant share of the economy. Accordingly, illegal employment, including illegal employment of third-country nationals, is one of the components of the shadow economy. However, the issue of illegal employment of third-country nationals often transcends national borders, extending beyond a single country within the European Union. Addressing this challenge frequently necessitates the involvement and cooperation of multiple countries, including the countries of origin of the migrants engaged in illegal employment. As a result, authorities increasingly collaborate at the international level, sharing best practices, conducting joint inspection actions, and organizing joint prevention campaigns. The establishment of the European Labour Authority in 2019, which includes representatives from the State Labour Inspectorate, plays a pivotal role in facilitating effective coordination and strengthening prevention efforts in this regard.

EMN is a Network composed of migration experts which aims to collect, analyse and provide up-to-date, objective, reliable and comparable information on migration and asylum. By the decree of the Government of the Republic of Lithuania International Organization for Migration Vilnius Office acts as the national coordinator for the EMN activities in Lithuania.

The EMN National Contact Point (NCP) in Lithuania is composed of representatives from the Ministry of the Interior, the Migration Department, the State Border Guard Service as well as the International Organization for Migration (IOM) Vilnius Office which acts as the national coordinator for the EMN activities in Lithuania. EMN NCP in Lithuania also collaborates with other entities from governmental as well as non-governmental institutions working in the area of migration.
