

No. 7185

**NETHERLANDS
and
PORTUGAL**

**Agreement concerning the migration, recruitment and
employment of Portuguese workers in the Netherlands
(with Protocol). Signed at Lisbon, on 22 November
1963**

Official text: French.

Registered by the Netherlands on 27 March 1964.

**PAYS-BAS
et
PORTUGAL**

**Accord concernant la migration, le recrutement et le pla-
cement de travailleurs portugais aux Pays-Bas (avec
Protocole). Signé à Lisbonne, le 22 novembre 1963**

Texte officiel français.

Enregistré par les Pays-Bas le 27 mars 1964.

[TRANSLATION — TRADUCTION]

No. 7185. AGREEMENT¹ BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE PORTUGUESE REPUBLIC CONCERNING THE MIGRATION, RECRUITMENT AND EMPLOYMENT OF PORTUGUESE WORKERS IN THE NETHERLANDS. SIGNED AT LISBON, ON 22 NOVEMBER 1963

The Government of the Kingdom of the Netherlands and

The Government of the Portuguese Republic,

Having regard to the friendly relations uniting the two countries and to their respective manpower requirements,

Desiring to regulate the migration, recruitment and employment of Portuguese workers in the Netherlands,

have agreed as follows :

GENERAL PROVISIONS

Article 1

Jurisdiction in matters relating to the migration, recruitment and employment of Portuguese workers in the Netherlands shall vest :

On the Portuguese side, in Emigration Board (hereinafter referred to simply as "the Board"),

On the Netherlands side, in the Employment Office of the Ministry of Social Affairs and Public Health (hereinafter referred to simply as "the Office").

Article 2

1. In order that the competent Portuguese authorities may have time to make the necessary arrangements and meet the demand, the Office shall supply the Board, at least once every six months, with information on the approximate requirements of the Netherlands economy in Portuguese workers, classified by branch of economic activity, industry and occupation.

2. The Board in turn, shall inform the Office as soon as possible of the extent to which the available workers can meet the demand.

¹ Came into force on 22 November 1963, upon signature, in accordance with article 22, paragraph 1.

Article 3

1. The Office shall supply the Board with all such information on the general conditions of remuneration and work and on living conditions as may be of concern to the workers.

2. It shall in particular supply all information regarding the average remuneration and average working hours in the various branches of the Netherlands economy and the amounts withheld from wages for payment of taxes and social security contributions, as well as all information concerning prices and the cost of living in general.

3. This information shall be brought up to date as and when necessary.

RECRUITMENT AND EMPLOYMENT

Article 4

1. Taking into account the information referred to in article 2, the Office shall notify the Board of offers of employment from Netherlands employers.

2. The offers of employment shall include all information regarding the nature, type and duration of the employment, the gross and net remuneration, conditions of work, facilities for the housing and feeding of the workers and any other matters of interest.

3. If an offer of employment is favourably received, the Board shall ensure the speedy dissemination thereof together with any particulars and information apt to be of interest to prospective applicants.

Article 5

The age-limits within which Portuguese workers will be eligible to work in the Netherlands shall be as follows :

- Between twenty-one and thirty-five years in the case of unskilled workers ;
- Between eighteen and forty-five years in the case of skilled or specialized workers.

These age-limits may be altered in special cases, by agreement between the Board and the Office.

Article 6

1. The Board and the Office shall ensure that applicants put forward by the Board are given a physical examination and an aptitude test to determine their occupational qualifications, and shall verify whether they meet the special conditions laid down by the Office.

2. The results of such examination and test in the case of each individual applicant shall be entered on forms drawn up by joint agreement.

3. The Board shall ensure that applicants who have been convicted of a criminal offence or whose moral or civic behaviour is known to be reprehensible are excluded.

4. The list of approved applicants shall be prepared jointly by the Board and the Office.

Article 7

1. The Office shall send a delegation to Portugal for the purpose of working with the Board in the selection of applicants.

2. In order to enable the said delegation to carry out the medical examinations and aptitude tests speedily and efficiently, the Board shall make available to it, at selection sites to be designated by joint agreement, such premises and other facilities as the delegation requires for the exercise of its activities.

Article 8

The Office shall, in respect of each worker ultimately considered for employment, furnish the Board with a contract of employment for a period of one year, the same to be prepared in triplicate in the Dutch and Portuguese languages.

The said contract, which shall conform to a model drawn up jointly by the Board and the Office, shall be signed by the employer, with the certification of the Office, and by the worker before his departure from Portugal, with the certification of the Board.

Article 9

1. On receipt of the contract of employment referred to in the preceding article, the Board shall ensure that the worker is provided with a passport.

2. The worker shall also have in his possession an official certificate indicating his marital status and a document giving the names of his family dependants.

3. The consular visa on the passport shall be free of charge.

Article 10

1. The Board shall ensure that the workers recruited are present on the dates, and at the places of departure for the Netherlands, agreed upon with the Office.

2. The travel of the workers from their place of residence in Portugal to the places of departure for the Netherlands shall be arranged by the Board. The cost thereof shall be advanced by the Board and reimbursed by the Office.

3. Travel between the place of departure in Portugal and the place of arrival in the Netherlands shall be arranged by the Office in agreement with the Board, and the cost thereof shall be defrayed directly by the Office.

4. All the costs referred to in this article shall be borne by the employers, who shall undertake to reimburse the Office therefor.

Article 11

A Netherlands employer may not, through the Netherlands Labour Offices, refuse to accept the opinion of the Office or of the delegation concerning the aptitude of a worker except where the inability of the worker to perform the job has become evident. In such cases the Netherlands Labour Offices shall endeavour to offer to the worker concerned employment corresponding to his aptitudes.

Article 12

Offers of employment addressed to specific persons on the basis of personal contacts may be considered only with the agreement of the Board and the Office. In such cases the selection and recruitment procedure may be simplified.

Article 13

1. The costs of the medical examination of the workers, of travel from their places of residence to the place of examination, and of their board and lodging while at the place of examination shall be borne by Portugal.

2. The costs of special medical examinations requested by the delegation, and of aptitude tests, shall be borne by the Netherlands.

3. Costs relating to the activities of the delegation shall in every case be borne by the Netherlands.

GENERAL CONDITIONS OF EMPLOYMENT

Article 14

1. The Portuguese workers employed in the Netherlands shall be afforded the same conditions of remuneration and employment as apply to Netherlands workers by virtue of legal provisions, collective agreements, the custom of a craft or profession and local custom.

2. They shall be afforded the same rights and safeguards as those enjoyed by Netherlands workers as regards the application of the laws on occupational health and safety and as regards accommodation.

3. They shall be entitled to the benefits which the Netherlands social security legislation provides for Netherlands workers, if they satisfy the conditions laid down in that legislation.

4. The Netherlands authorities shall ensure that these provisions are applied and, in particular, that when a worker is accepted, the conditions of recruitment are consistent with these provisions.

5. In addition, in the matter of labour disputes, the Portuguese workers shall have access to the competent administrative or judicial authorities of the Netherlands under the same conditions as Netherlands workers.

6. In the event of a dispute as referred to in the preceding paragraph, a Portuguese worker may be assisted by a Portuguese consul, within the limits prescribed by Netherlands law.

Article 15

Portuguese workers may transfer the entire amount of their savings to Portugal in accordance with the provisions in force in the Netherlands.

Article 16

1. The Netherlands Labour Offices and Netherlands employers shall give the Portuguese workers all the assistance they require in familiarizing themselves with their new surroundings, particularly during their initial period of employment.

2. The competent authorities of both Contracting Parties shall give sympathetic consideration to all steps taken by Netherlands or Portuguese social or religious organizations to facilitate the adaptation of the Portuguese workers. Arrangements shall also be made to facilitate co-operation between such Portuguese and Netherlands organizations.

Article 17

1. The worker shall return to Portugal on the expiry of his contract unless the contract is renewed or, subject to the authorization of the Netherlands authorities, he accepts other employment.

2. On the expiry or termination of the contract, the repatriation expenses shall be borne by the Netherlands employer. Such expenses shall, however, be borne by the worker if he is repatriated through some serious fault of his own; a decision in the matter shall be taken by the Labour Office in whose area the place of employment is situated.

3. If the contract of employment is renewed after twelve months, the worker's travelling expenses to and from Portugal by rail shall be paid by the employer if the worker wishes to spend his holidays in Portugal. In this case, the employer shall allow the worker six days paid leave for travel, which shall not be deducted from his holidays. In the event of any further renewal of the contract, the granting of this privilege shall not be compulsory.

FINAL PROVISIONS

Article 18

Workers recruited under the terms of this Agreement may be repatriated to Portugal by the competent Netherlands authorities on grounds of public policy, public security or public health.

Article 19

The competent Netherlands authorities shall endeavour to take the necessary steps to eliminate all forms of migration not provided for in this Agreement.

Article 20

1. At the request of either of the Contracting Parties, a Joint Commission, consisting of not more than three representatives of each Party, shall be established. Each delegation may be assisted by experts.

2. The Joint Commission shall endeavour to solve any difficulties which may arise in the application of this Agreement.

It may also consider general questions relating to the migration, recruitment and employment of Portuguese workers in the Netherlands.

It may, as the occasion arises, submit proposals to both Parties regarding the questions it has considered.

3. The Joint Commission shall establish its own rules of procedure and working methods. It shall meet in Portugal and in the Netherlands alternately.

Article 21

In so far as the Kingdom of the Netherlands is concerned, this Agreement shall apply only to the European territory of the Kingdom.

Article 22

1. This Agreement shall come into force on the date of signature.

2. It shall remain in force for one year and may be renewed by tacit agreement from year to year. Each Party nevertheless reserves the right to terminate the Agreement by notifying the other Party through the diplomatic channel not later than three months before the expiration of the current year.

IN WITNESS WHEREOF, the duly authorized representatives of the two Parties have signed this Agreement.

DONE at Lisbon on 22 November 1963, in duplicate, in the French language.

For the Government of the Kingdom of the Netherlands :

(Signed) R. FLAES

For the Government of the Portuguese Republic :

(Signed) A. M. G. FRANCO NOGUEIRA

PROTOCOL

At the time of signing the Agreement concerning the migration, recruitment and employment of Portuguese workers in the Netherlands,¹ the plenipotentiaries of the Kingdom of the Netherlands and of the Portuguese Republic have agreed as follows :

Article 1

Both Contracting Parties wish to settle their relations with respect to social insurance at an early date by the conclusion of a general convention on social security.

Article 2

This Protocol shall come into force at the same time as the Agreement concerning the migration, recruitment and employment of Portuguese workers in the Netherlands.

DONE in duplicate, in the French language, at Lisbon on 22 November 1963.

For the Government of the Kingdom of the Netherlands :
(Signed) R. FLAES

For the Government of the Portuguese Republic :
(Signed) A. M. G. FRANCO NOGUEIRA

¹ See p. 33 of this volume.