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INSPECTION REPORT NEN 4400-2:2008

Inspector : C. de Man
Registration number : 34579
Type of inspection : NEN 4400-2 full
Date of issue : January 13, 2012

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Name of company : Lugera Maklér Temps SRO
Inspection contact person : Ms E. Francekova
Inspection address : Jilemnickeho 3
Postcode and town/city : 911 01 Trencin, Slovakia

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NEN- standard part	NEN 4400-2 standard requirement	Not applicable	Not conform
4.1	Part A: Requirements on the company		
4.1.1	Identification of the company The company must provide assurances that it:		
<input type="checkbox"/> 4.1.1.1	is a legal entity by means of the following:		
	a. provision of an excerpt from the Chamber of Commerce of the country in which the company is established or an equivalent document;	<input type="checkbox"/>	<input type="checkbox"/>
	b. the specification of the objective in the document referred to under 1 a must at least provide for the provision of labour and/or for undertaking outsourced work;	<input type="checkbox"/>	<input type="checkbox"/>
	c. the provision of insights into company relationships;	<input type="checkbox"/>	<input type="checkbox"/>
	d. the actual performance of business activities in the country in which the company is established;	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.1.1.2	is an identifiable entity by means of the following specified registration numbers:		
	a. the withholding tax number ("loonheffingnummer") from the Dutch Tax and Customs Administration, when required;	<input type="checkbox"/>	<input type="checkbox"/> M
	b. the Dutch VAT number, when required;	<input type="checkbox"/>	<input type="checkbox"/> M
	c. the blocked account (G account number), where relevant.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.1.1.3	announces the identity of the natural person(s) bearing the overall responsibility for the company;	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.1.1.4	reports changes in the name and the ownership structure, such as takeovers, to the inspection body.	<input type="checkbox"/>	<input type="checkbox"/>
4.1.2	Company records The company keeps records that reveal the Dutch obligations in time and in full with respect to employees who carry out work in the Netherlands.		
<input type="checkbox"/> 4.1.2.1	Both changes in the contract of employment relating to the conclusion, amendment and termination of the contract and changes in the entitlement to carry out work must be processed within one working day of all the relevant information becoming available.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.1.2.2	Changes in the payroll records relating to changes in Dutch obligations must be processed within one month.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.1.2.3	Changes in the financial records relating to changes in Dutch obligations must be processed within three months.	<input type="checkbox"/>	<input type="checkbox"/>

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<input type="checkbox"/> 4.1.2.4	The records of companies established outside the Netherlands relating to employees who carry out or have carried out work in the Netherlands must be retained for seven years (financial and salary data) and five years (personnel records) after the end of the relevant calendar year.	<input type="checkbox"/>	<input type="checkbox"/> M
4.2	Part B: Requirements on the records		
4.2.1	Part B.1: Requirements on the personnel records		
4.2.1.1	Maintenance of adequate personnel records The company maintains correct, full and up-to-date personnel records of all persons who carry out or have carried out work in the Netherlands. Pursuant to this requirement the company is required to verify that these persons are in the possession of a valid and authentic document establishing their identity at the time of the conclusion of their contracts of employment and that employees without Dutch nationality are entitled to carry out work in the Netherlands, to carry out a further verification once the document establishing their identity has expired and to carry out a physical verification of the identity of all employees to preclude the 'look-alike' hazard. The company must provide assurances that it:		
<input type="checkbox"/> 4.2.1.1.1	has implemented adequate control measures for the above;	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.1.1.2	has verified that employees without Dutch nationality who carry out or have carried out work in the Netherlands for the company are or were entitled to carry out work in the Netherlands at the time they were taken on by the company;	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.1.1.3	has issued the client copies of valid and authentic documents establishing the identity of all persons without Dutch nationality which, where relevant, also reveal that they are entitled to carry out work in the Netherlands at the time those persons began work for the client. In addition, the company's records must include the valid and authentic work permit of persons entitled to carry out work in the Netherlands solely when they have been issued a work permit or, when the work permit is issued to the employer for whom the work is carried out, a copy of the work permit. When notification of employees is required on contracting for work in the Netherlands then valid and authentic proof of the notification must be included in the records;	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.1.1.4	has verified that employees without Dutch nationality have renewed the document establishing their identity, work permit, where relevant, and the E101/E102 declaration on the expiry of the document establishing their identity, work permit, where relevant, and the E101/E102 declaration that also reveal, where relevant, that they are entitled to carry out work in the Netherlands;	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.1.1.5	a demonstrable contract of employment has been concluded with all persons who carry out or have carried out work in the Netherlands for the company which includes the applicable terms and conditions of employment pursuant to the Terms of Employment (Cross-border Work) Act (WAGA);	<input type="checkbox"/>	<input type="checkbox"/> M

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<input type="checkbox"/> 4.2.1.1.6	has demonstrably issued a first day notification (EDM), when required, for all persons who carry out or have carried out work in the Netherlands for the company prior to the commencement of their work;	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.1.1.7	maintains a hard copy and/or electronic file for all persons who carry out or have carried out work in the Netherlands for the company for the period of five years after the last payment of wages which reveals that the company had verified that the person is or was entitled to carry out work. This file must at least contain:		
	a. a copy of the proof of identity. This must also reveal that persons without Dutch nationality are or were, where relevant, entitled to carry out work in the Netherlands;	<input type="checkbox"/>	<input type="checkbox"/> M
	b. a copy of the residence permit, when required;	<input type="checkbox"/>	<input type="checkbox"/> M
	c. (a copy of) the work permit or proof of notification, where relevant;	<input type="checkbox"/>	<input type="checkbox"/> M
	d. a first day notification (EDM);	<input type="checkbox"/>	<input type="checkbox"/> M
	e. a statement of information for payroll tax ("opgaaf gegevens voor de loonheffingen") in the event of the obligation to withhold tax in the Netherlands;	<input type="checkbox"/>	<input type="checkbox"/> M
	f. a tax and social insurance number (BSN) in the event of the obligation to withhold tax in the Netherlands;	<input type="checkbox"/>	<input type="checkbox"/> M
	g. a copy of the E101/E102 declaration demonstrably issued by a competent agency for the issue of the declaration.	<input type="checkbox"/>	<input type="checkbox"/> M
4.2.1.2	Specific requirements imposed on 'payroller' personnel records 'Payrollers' must impose a number of specific requirements in contracts with clients.		
<input type="checkbox"/> 4.2.1.2.1	The client must ensure that the 'payroller' is issued clearly legible copies of the employees' proof of identity and, when required, work permit.	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.1.2.2	These copies must be accompanied by a statement that reveals that the identity of the relevant employees was checked – including the possibility of exchanges of identity – and the person who carried out the check. This declaration must also be signed by the relevant employee starting work.	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.1.2.3	The client must permit the 'payroller' to carry out random inspections of the procedure on-site.	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.1.2.4	The client must also permit the 'payroller's' inspection body to carry out random inspections of the procedure on-site.	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.1.2.5	The 'payroller' must also carry out a thorough check of the copies of the proof of identity and work permits.	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.1.2.6	The 'payroller' must carry out random checks of the client's compliance with the identity-check procedure.	<input type="checkbox"/>	<input type="checkbox"/> M

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4.2.2	Part B.2: Requirements on the payroll records		
4.2.2.1	The maintenance of adequate payroll records for employees who carry out work in the Netherlands When there is an obligation to withhold tax in the Netherlands then a correct, timely and complete calculation of the wages must be made pursuant to the Dutch legislation and regulations which reveals the obligations ¹ . The company must to this end provide assurances that it:		
<input type="checkbox"/> 4.2.2.1.1	has entered all the parameters and personal details of relevance to the Dutch obligations correctly in the payroll records;	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.2.2.1.2	has adopted and implemented and maintains a procedure for the application of the relevant Collective Labour Agreement wages that have been declared generally binding;	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.2.2.1.3	pays at least the Minimum Wage and Minimum Holiday Allowance Act (WML) amounts;	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.2.1.4	the employee's timesheets are processed correctly, completely and in time;	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.2.2.1.5	the method used to keep timesheets provides for reconciled records of the hours worked and the feasibility of checks thereof. The work sheets ² (on the provision of labour), wage slips and invoices consequently state at least the following: a. the employee's name; b. the number of the week, period or month in which the work was carried out; c. the number of hours worked;	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.2.2.1.6	d. (solely with work sheets) the location of the workplace. With employees without a fixed workplace this is the place from which they work; untaxed allowances are granted in accordance with the Dutch tax legislation and regulations or in accordance with the agreements for the specific company reached with the Dutch Tax and Customs Administration;	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.2.2.1.7	when contracting work and deploying employees who are not in the possession of an E101/E102 declaration then the obligations relating to the social insurance premiums for employed persons insurance schemes and the income-related	<input type="checkbox"/>	<input type="checkbox"/>

¹ Diagrams in annexes F and G indicate when an obligation to withhold tax in the Netherlands does and does not arise and the conditions that must then be met

² Work sheets are not required for lengthy periods of work in accordance with fixed agreed working hours. A demonstration of the contractual agreements will then suffice.

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<input type="checkbox"/> 4.2.2.1.8	contribution pursuant to the Healthcare Insurance Act are fulfilled; all payments made in any form whatsoever in connection with carrying out work in the Netherlands are incorporated in the calculation of the payroll tax owed in the Netherlands.	<input type="checkbox"/>	<input type="checkbox"/> M
4.2.2.2	Reconciliation of hours The hours worked, paid and invoiced in the Netherlands must be in agreement with each other when account is taken of hours' leave, hours' sick leave, compensation hours and idle hours. The company must to this end provide assurances that it:		
<input type="checkbox"/> 4.2.2.2.1	has ensured that the hours worked and hours invoiced are in agreement with each other;	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.2.2.2	has ensured that the hours worked, payrolled and paid are in agreement with each other (whereby, to the extent applicable, account is taken of hours' leave, hours' sick leave, compensation hours and idle hours).	<input type="checkbox"/>	<input type="checkbox"/> M
4.2.2.3	Obligations with respect to Dutch payroll tax The company carries out any actions relating to Dutch payroll tax ³ correctly, completely and in time. The company must to this end provide assurances that it:		
<input type="checkbox"/> 4.2.2.3.1	prepares the payroll tax returns in accordance with the Dutch legislation and regulations, including the correct statement and classification of risk groups;	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.2.3.2	reconciles the payroll tax returns with the payroll records obligations;	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.2.3.3	files the payroll tax returns in time.	<input type="checkbox"/>	<input type="checkbox"/> M
4.2.3	Part B.3: Requirements on the financial records		
<input type="checkbox"/> 4.2.3.1	Payment of payroll tax due in the Netherlands The company pays the payroll tax due in the Netherlands in full and in time.	<input type="checkbox"/>	<input type="checkbox"/> M
4.2.3.2	Maintenance of adequate turnover records When there is an obligation to pay VAT in the Netherlands then the company must maintain correct, complete and up-to-date turnover records. The company must to this end provide assurances that it:		
<input type="checkbox"/> 4.2.3.2.1	submits invoices that comply with at least the statutory requirements ⁴ ;	<input type="checkbox"/>	<input type="checkbox"/> M

³ In the event of prevailing E101/E102 declarations the company is required to file returns for and pay the social security obligations in the country of establishment.

⁴ In general, the VAT liability transfer regulations will be applicable pursuant to Article 12, paragraph 3, of the Turnover Tax Act: this must be made clear in the invoice.

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<input type="checkbox"/> 4.2.3.2.2	processes the invoices in its records (VAT) in time;	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.3.2.3	prepares the VAT returns in accordance with the Dutch regulations and legislation and reconciles them with the financial records obligations;	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.2.3.2.4	files complete VAT returns in time and makes the payments of VAT in full and in time.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.2.3.3	Maintenance of adequate cash records The company maintains adequate cash records with respect to payments of wages and expense allowances relating to work in the Netherlands.	<input type="checkbox"/>	<input type="checkbox"/> M
4.2.4	Part B.4: General requirements in specific situations		
<input type="checkbox"/> 4.2.4.1	Outsourcing of work from and hiring and rehiring personnel to companies with NEN 4400 certification The hiring and rehiring of employees to and the outsourcing of work from companies registered with the Register Normering Arbeid (Labour Standardization Register) or companies that can demonstrate that they comply with assurances equivalent to the assurances offered by the Register Normering Arbeid and whose core competence is the provision of labour or contracting of work is permitted solely when:		
	a. the company is issued copies of the proof of identity of the employees;	<input type="checkbox"/>	<input type="checkbox"/>
	b. adequate agreements have been made on the verification of the entitlement to carry out work in the Netherlands.	<input type="checkbox"/>	<input type="checkbox"/>
4.2.4.2	Outsourcing of work from and hiring and rehiring personnel to companies without NEN 4400 certification The hiring and rehiring of employees to and the outsourcing of work from companies that are not registered with the Register Normering Arbeid (Labour Standardization Register) or companies that cannot demonstrate that they comply with assurances equivalent to the assurances offered by the Register Normering Arbeid and whose core competence is the provision of labour or contracting of work is permitted solely when all the following conditions are met.		
<input type="checkbox"/> 4.2.4.2.1	The hiring of personnel out outsourcing of work is laid down in writing.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.2.4.2.2	When employees without Dutch nationality are deployed:		
	a. the company is issued copies of the proof of identity of the employees;	<input type="checkbox"/>	<input type="checkbox"/>
	b. adequate agreements have been made on the verification of the entitlement to carry out work in the Netherlands.	<input type="checkbox"/>	<input type="checkbox"/>

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<input type="checkbox"/> 4.2.4.2.3	The total turnover generated by hired labour or outsourced work per client company or subcontractor ⁵ does not amount to 5% of the relevant company during the preceding 12 months ⁶ .	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.2.4.2.4	The absolute total of the turnover generated by hired labour and outsourced work does not exceed a maximum of 50% of the company's turnover.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.2.4.2.5	When more than 2.5% of the company's turnover is generated by hired labour or outsourced work then at least 55% of the invoice amount is transferred to the G account of the client company or subcontractor. This percentage can be reduced to 40% of the invoice amount when the VAT liability transfer regulations are applied.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.2.4.3	Use of a G account When funds are transferred to the own G account then the entrepreneur must provide assurances that payments are made from the G account solely to the Dutch Tax and Customs Administration and/or to the G account of a client company or subcontractor with whom business has been conducted.	<input type="checkbox"/>	<input type="checkbox"/>
4.2.4.4	Issue of information and documentation The company cooperates to an adequate extent in the provision of information and documents to the inspection body. The company must to this end provide assurances that it:		
<input type="checkbox"/> 4.2.4.4.1	gives the Dutch Tax and Customs Administration authorization to issue payment conducts to the Stichting Normering Arbeid (Labour Standardization Foundation) for the months of February, May, August and November;	<input type="checkbox"/>	<input type="checkbox"/> M
<input type="checkbox"/> 4.2.4.4.2	furnishes the most recent financial statements when so requested by the inspection body;	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.2.4.4.3	furnishes the Dutch Tax and Custom Administration's audit reports when so requested by the inspection body.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4.2.4.5	Obligations on franchisers and franchisees When all employees are employed by the franchiser then the contract the franchiser concludes with the franchisee must include the franchisee's obligation to permit the certification body to conduct front-office audits and to inspect the financial records during the audits.	<input type="checkbox"/>	<input type="checkbox"/> M

⁵ When hired personnel are regularly loaned to the same client company or work is outsourced to the same subcontractor then it is reasonable to promote the certification of the company or subcontractor pursuant to NEN 4400-1 and/or NEN 4400-2.

⁶ Hiring and rehiring self-employed persons without employees is not possible with the retention of their independent status, even when they are in the possession of a Verklaring Arbeidsrelatie (declaration of independent contractor status). However, the mediation of self-employed persons without employees and the outsourcing of work to or commissioning of work to self-employed persons without employees is possible with the retention of the independent status of self-employed persons without employees (the commission relates to work of an immaterial nature). In practice, commissions of this nature are granted regularly.

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Summary of nonconformities identified:

Minor nonconformities identified:

- Artikel 4.2.2.3.1:
The Dutch payroll tax is not (yet) withheld from the employee(s). Since this is no substantial liability (yet), this is considered to be a minor non conformity for now.

Major nonconformities identified:

none

Remarks:

none