

## National Guidelines on Ethical Recruitment in Albania for Implementing and Human Rights-Related Institutions

### Acronyms

CoMD	Decision of the Council of Ministers
CDPRI	Commissioner for the Data Protection and the Right to Information
CPD	Commissioner for the Protection against Discrimination
ILO	International Labour Organization
IOM	International Organization for Migration
MfEFA	Ministry of Europe and Foreign Affairs
MoFE	Ministry of Finance and Economy
MoHSP	Ministry of Health and Social Protection
MoI	Ministry of Interior
NAES	National Agency of Employment and Skills (formerly known as NES – National Employment Service)
NAPM	National Action Plan on Migration
NBC	National Business Centre
NSM	National Strategy on Migration
SLI	State Labour Inspectorate
PA	People’s Advocate
PEA	Private Employment Agencies

The National Strategy on Migration (NSM)<sup>1</sup> of the Republic of Albania requires the adoption of a set of ethical recruitment standards for migrant workers. The following set of professional and ethical recruitment standards is prepared on the bases of the Albanian legal framework in force, the ILO Convention No. 181 "On private employment agencies", IOM’s IRIS Standard (2019)<sup>2</sup>, and the 2020 Montreal Recommendations on Recruitment.<sup>3</sup>

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<https://albania.iom.int/sites/default/files/publication/THE%20NATIONAL%20STRATEGY.pdf>

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<https://iris.iom.int/sites/g/files/tmzbdl201/files/documents/IRIS%20Standard%20Report%20.pdf>

<sup>3</sup> <https://publications.iom.int/system/files/pdf/the-montreal-recommendation.pdf>

The following set of standards aims to serve as a guide for Governmental/State institutions, responsible for implementing the set norms related to ethical recruitment. Such institutions include the implementing as well as human rights-related institutions, as follows:

#### Implementing institutions

- The National Business Center
- The Central State Inspectorate
- The State Health Inspectorate
- The State Inspectorate of Labour and Social Services
- The National Agency for Employment and Skills

#### Human rights institutions

- The People's Advocate (Ombudsman)
- The Commissioner for the Protection against Discrimination (CPD)
- The Commissioner for the Protection of the Right to Information and Personal Data

This National Guidelines on Ethical Recruitment in Albania for Implementing and Human Rights-Related Institutions follows the structure of the 2020 Montreal Recommendations on Recruitment, presenting the normative framework underlying each ethical recruitment objective (both from the Albanian legislation and international principles) and the corresponding relevant international practices.<sup>4</sup> This document refers to national and international rules binding on implementing institutions in Albania, as well as human rights-related ones, as per their fields of responsibility. It also highlights cooperation with strategic institutions (Ministry of Finance and Economy, Ministry of Interior, and the Ministry for Europe and Foreign Affairs).

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<sup>4</sup> NOTE: International practices were selected on the basis of the preliminary identification of issues in the Albanian framework of ethical recruitment. The following aspects have been determined as important for considering particular cases:

- an effective system of controls at licensing, registering and monitoring of the activities of private labour recruiters, enabling competent state authorities to survey the field of labour recruitment,
- the capacity for verification of terms of recruitment and employment through use of on-site inspections,
- a working arrangement for ensuring that the employers are not charged for use of recruitment services,
- transparent practices of conclusion of written employment and intermediation contracts, which clarify the parties' obligations and rights, and which are readily enforceable.

Considering the strategic priority of Albania's EU accession and the concentration of Albanian migrant workers in several European states, it was resolved that emphasis would be made on European practices.

## OBJECTIVE 1 Protecting migrant workers

### Normative framework:

#### Albanian

1. Migrant workers' rights are stipulated in a robust range of legal framework, including the Labour Code, Law 'On foreigners', Criminal Code, Law on the Protection from discrimination, Law on data protection, or even dedicated sublegal acts. Article 18/5 of the **Labour Code** mandates equal protection to migrant workers insofar as *"the basic working conditions and employment of the employees of the Agency, during the time when they work in the host enterprise, are at least those that apply in case the employees would have been recruited directly by the host enterprise for the same job."*
2. Furthermore, the **Law No. 79/2021 "On Aliens"** explicitly guarantees working rights to agency workers by requiring that the Agency for Employment and Skills approve recruitment as long as *"foreign workers have not been recruited to work under less favourable working conditions than the Albanian workers in the same position. From the review of information concerning wages, working hours and the other working conditions, it results that they comply with the Albanian labour laws"*.
3. Temporary Employment Agencies are prohibited to substitute employers that are on strike with temporary recruited persons. In line with Art. 18/1 of the **Labour Code** *"it is prohibited the use of temporary work of the Agency in certain cases, sectors or certain categories of employees, if the general interest is affected, in particular related with the protection of the temporary staff of the Agency, health and safety conditions at work, or when this is required to ensure the proper functioning of the labour market or to prevent abuses."*
4. The **CoMD no. 101, dated 23.2.2018 "On the manner of organization and functioning of private employment agencies"** requires the following:
  - a. PEAs ensure equal treatment for all jobseekers
  - b. jobseeker mediated by the agency enjoys the right to collective bargaining, the minimum wage, working time and conditions, social security benefits, protection of property and health at work
  - c. PEAs notify the jobseeker of the working conditions and employment, before starting the employment relationship
  - d. PEAs staff have the necessary qualification and training for the services they provide

#### International

1. **Equality of treatment** for all categories of workers, including migrant workers, is enshrined in Objective 6 of the **Global Compact** for Safe, Orderly and Regular Migration, which calls for facilitating *"fair and ethical recruitment"*.
2. Article 25.3 of the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families** does not allow for any *"derogation from this principle [of equal treatment] by reason of any irregularity in their stay or employment"*.
3. **ILO Convention 181** in Article 11 defines the essential elements of a **mediation contract**, which should provide for equality of rights for agency workers: (a) *freedom of association*; (b) *collective bargaining*; (c) *minimum wages*; (d) *working time and other working conditions*; (e) *statutory social security benefits*; (f) *access to training*; (g) *occupational safety and health*; (h) *compensation in case of occupational accidents or diseases*; (i) *compensation in case of insolvency and protection of workers claims*; (j) *maternity protection and benefits, and parental protection and benefits*.

### Relevant International Practices:

1. **Recruitment only to meet actual labour market needs. EU.** To ensure that the admission of migrant workers does not displace current workforce (either as part of the entire labour market or in particular sectors), EU Member States apply in their national legislation the so-called **labour market test**. In line with this mechanism, to be granted permission for hiring foreign workers, employers must demonstrate that they have not been able to locate

workers for a given vacancy from among nationals of the country, EU and EEA citizens or legally residing third-country nationals with access to the labour market according to national legislation.

- 2. Notification of rights prior to employment. Netherlands.** Collective agreement requires all temporary agencies to secure written confirmation from their workers of the terms of the placement, enumerating the essential information to be included in the signed document. **Poland.** Since 2017, migrant workers delegated to be employed in Poland need to be informed of the terms of work before concluding an individual agreement with the agency by signing a written document confirming familiarity with conditions for entry, residence and work in Poland. Furthermore, each delegated worker must sign a civil agreement, stipulating the terms of the work contract.
- 3. Intermediation agency responsible to make employer and employee aware of obligations. United Kingdom.** Prior to offering work intermediation services, agencies must obtain a written agreement signed by a job-seeker to the terms of service, stipulating, in particular the type of work to be sought and the legal relationship with the agency (for instance, whether the agency will act as an employer). The rules binding private recruiters require that an employment agency "take all such steps, as are reasonably practicable" to ensure that both parties are aware of their legal obligations and that the employment relation is not detrimental to the interests of either party.

## OBJECTIVE 2 Recruitment fees

### Normative framework:

#### Albanian

- CoMD nr. 286/2018** "On temporary employment", point 2. provides that ". . . temporary employee does not pay a tariff to the PEA". Under Art. 18/3 of the Labour Code, a contract between the agency, which "provides the obligation of the employee to pay to the Agency a fee for hiring in the receiving agency or establishing a legal relation with the receiving enterprise" shall be rendered invalid.
- CoMD 101/2018** on PEAs, point 13, c) states: "If it is proved that PEA requested a tariff from the employee for the offered services, directly or indirectly, or accepted payments, goods, or services from the employee, the ministry responsible for the employment, notifies the Business Center for the revocation of the license."

#### International

- Convention No. 181** on Private Employment Agencies states in **Art. 7.1.** "Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers".
- In line with Art. 6.3 of **EU's Directive on Temporary Agency Work** (2008/104/EC), the ban applies to fees from workers "in exchange for arranging for them to be recruited by a user undertaking, or for concluding a contract of employment or an employment relationship with a user undertaking after carrying out an assignment in that undertaking".

### Relevant International Practices:

- Compensating workers for fees charged.** Under the Montreal Recommendations employers ought to establish financial compensation schemes to refund any recruitment fees charged to workers where these are found in the course of due diligence investigations on their supply chains.

2. **Use of bilateral agreements.** The UN Network on Migration's 2022 Guidance on Bilateral Labour Migration Agreements (BLMAs): **BLMAs** should in particular contain clauses prohibiting abusive and fraudulent recruitment practices, most notably the ban on charging recruitment fees and related costs to migrant workers.
3. **Obligatory bank transfers.** In 2013, **Finland** introduced a legal requirement for employers to transfer their workers' salaries to the workers' bank accounts.

## **OBJECTIVE 3 Registration and licensing**

### **Normative framework:**

#### *Albanian*

1. A **Decision of the Council of Ministers no. 101**, dated 23.2.2018 "On the manner of organization and functioning of private employment agencies", stipulates that private employment mediation activity will be exercised only by licensed private employment agencies (PEAs). Such agencies must be provided with the license of category X.2.A, "Mediation in the labour market", pursuant to **law no. 10081, dated 23.2.2009, "On licenses, authorizations and permits in the Republic of Albania"**. The Law determines the criteria to be met and documentation to be submitted by a private entity to exercise such type of activity in the territory of Albania.
2. As per the **National Migration Strategy 2019-2022**, adopted with the Council of Minister's Decision no. 400, dated 19.6.2019 "On the adoption of the National Strategy on Migration and the Action Plan 2019-2022", MoFE is responsible on developing ethical recruitment guidelines for private employment agencies based on applicable legislation, including the preparation of reporting formats to be used regularly by recruitment agencies, and publishing this act cat on the website of the MoFE, NES, Labour Inspectorate, NBC as well as the availability at the employment offices.

#### *International*

1. **The Montreal Recommendations** mandate that *all actors that engage in recruitment, whether individuals or enterprises, should be registered either through licensing or a registration scheme.*
2. Moreover, the Recommendations state that the *Governments should require recruiters to comply with a globally recognized **ethical code of conduct** for recruitment consistent with established international guidance, such as the IRIS Standard and ILO General Principles and Operational Guidelines for Fair Recruitment.*
3. In accordance with guidance 13.6 of the **ILO Multilateral Framework on Labour Migration**, a national government "*shall consider establishing a system of protection, such as insurance or bond, to be paid by the recruitment agencies, to compensate migrant workers for any monetary losses resulting from the failure of a recruitment or contracting agency to meet its obligations to them*".

### **Relevant International Practices:**

1. **Licensing various types of intermediation.** In **Poland**, two types of license are obligatory, corresponding to the scope of the services offered by the agencies: temporary work license (under which the agency may conclude an employment contract with the worker) and labour intermediation and professional and personal advice (allowing the agency to provide a variety of services and place the worker with an employer, which concludes an

individual work contract). Carrying out such activities without a proper license results in administrative fines.

2. **Reporting requirements within the registration process. France.** Before an agency may start offering intermediation services, it must submit to the local office of the Labour Inspectorate an obligatory declaration, listing the legal form of the enterprise, the headquarters address, the names, addresses and nationalities of its directors and the number of permanent employees. To protect the rights of temporary workers, the agency must attach confirmation of financial capacity to pay, in case of insolvency, wages, benefits and social security contributions due to the workers. Another declaration must be submitted whenever the agency moves its headquarters, opens a subsidiary or terminates its operations.
3. **Time limits on use of agency work. Germany.** In 2017, amendments to the Act on Temporary Agency Work were introduced to limit the length of continuous assignment to maximum 18 months with a re-appointment of a worker with the same user company allowed only after a break of three months. Failure to observe this rule makes both the agency and the user company liable to a fine of up to 30,000 euros and can be grounds for revoking the agency license.
4. **Mandatory licensing in country of destination.** In the **United Kingdom**, the Gangmasters' Licensing Authority introduced mandatory licensing of agencies, which supplied workers to the UK, while being based in the countries of workers' origin. Such agencies are subject to a licensing Code of Practice. The Code requires the license holder, *inter alia*, to ensure that the provided accommodation is safe, that the worker may take the legally foreseen breaks, rest periods and leaves, and to make sure that the employer (end user) carries out health and safety risk assessment before work commences and manages health and safety work conditions during employment.

## **OBJECTIVES 4 & 5 Administration, inspections and enforcement; and Ratings, rewards and rankings**

### **Normative framework:**

#### *Albanian Legislation*

1. Item 18 of **CoMD no. 101, dated 23.2.2018** "On the manner of organization and functioning of private employment agencies", requires that State Inspectorate of Labour monitors periodically the activity of PEAs.
2. In line with item 13 of the above Decision, whenever PEAs or PEAs partners, shareholders or members of its governing bodies are found to have: been convicted of criminal offenses committed intentionally; violated the principle of equality, discriminating against the jobseeker; requested fees from the jobseeker offering services to minors, the ministry responsible for employment issues notifies the National Business Centre for the revocation of the license.

#### *International Principles*

1. Assessment of the **EU Agency for Fundamental Rights** (2018) points to the following three **objectives of effective labour inspections** in the area of reducing and eliminating exploitation:
  - *Educational* by supplying workers and employers with a clear and accessible interpretation of labour standards and norms,
  - *Enforcement* through application of sanctions in order to reduce the incidence and severity of violations,
  - *Diagnostic* by monitoring the level of employers' compliance with those norms, identifying most prevalent forms of exploitation and abuse as well as proposing changes to laws and procedures to remedy the situation.

2. The above study concluded that adopting certain mechanisms could **enhance labour inspections' capacity** for reducing incidence of labour exploitation. The following specific recommendations were made:
  - Increasing the frequency of inspections and making unannounced checks so as to improve the rate of detection of violations and counter employers' strategies to undermine controls,
  - Broadening the scope of inspections and varying the set of questions as well as of the interviewed workers during consecutive controls,
  - Changing the inspectors visiting a particular employer as well as organizing joint controls with other monitoring services,
  - Concentrating inspections in the sectors and types of businesses with higher-than-average rates of irregularities or more flagrant violations of workers' rights,
  - Building trust with employees through carrying out interviews only in the absence of the employer as well as ensuring their protection from consequences of providing information to inspectors.
  
3. **Montreal Recommendations** encourage the governments to *consider, develop and implement meaningful, globally recognized and evidence-based ratings, rankings and reward schemes for labour recruiters targeted at incentivizing compliance with applicable national laws and policies and ethical recruitment standards.*

### Relevant International Practices:

1. **Detailed reporting on agency employment contracts.** *France.* The Labour Inspectorate collects from each agency monthly reports, containing data on the current contracts in force, the end-user businesses and the list of workers placed with the employers, containing their names and indicating their sex and nationality.
2. **Broad scope of inspections.** In a 2018 **review of EU practices**, EU Agency for Fundamental Rights concluded that to eliminate exploitation, labour inspections need to focus on the following areas:
  - *Legal status of employment* (including verification of presence and authenticity of work permits and other authorization documents as well as of certificates of qualification, checks on the compliance of employment contracts and agreements with binding norms),
  - *Remuneration and social security, working time and overtime* (inspection of the wages/salary records and history of social security contributions, interviewing workers on actual working time, including holidays or statutory rest time, wage arrears and overtime that remains unpaid or not fully paid),
  - *Occupational safety and health* (on-site verification of work hazards, availability of protective gear and investigation of record of accidents) with particular attention given to the status of workers with special needs (including women, children/youth or persons with disabilities).
  - *Fundamental labour rights and non-discrimination* (assessment of the relative position of the vulnerable categories in the workplace, workers' awareness of their rights).
3. **Obligatory aspects of an inspection, required by law.** In *Poland*, a standard on-site inspection of an employment agency covers the following aspects, enumerated in the labour legislation:
  - whether the agency holds a valid license, corresponding to the type of intermediation,
  - whether it operates from a physical premise (office),
  - whether it complies with the principle of equal treatment,
  - whether it provides workers with a written list of all costs, fees and other payments and whether it does not collect any unauthorized fees (in particular, those for securing employment),
  - whether it has concluded valid individual contracts with foreign workers in Poland as well as Polish nationals placed abroad and with end-user employers,
  - whether it maintains records of employers and workers placed for work abroad.
4. **Unannounced inspections as part of risk assessment.** In *Netherlands*, inspections of the Inspectorate SZW at the Ministry of Social Affairs and Employment target employers,

both direct and temporary agencies, and may take place both at worksites and in headquarters. Inspections are unannounced and are planned either in response to reports of violations (placed for instance by workers), as a follow-up check to a previous inspection or as a result of the risk analyses carried out to identify geographical areas or sectors with greater risk of violations.

5. **Work permit for workers in vulnerable situations. Canada.** In 2019, the Immigrations, Refugees and Citizenship Canada agency launched an open work permit for vulnerable workers. Under the programme, workers who found themselves in abusive conditions were granted the right to apply for work permits without having to secure another vacancy. Once an open work permit is issued, the authorities proceed to carry out an inspection to verify if the previous employer was compliant with the binding regulations on workers' rights.
6. **Voluntary self-assessment.** IOM has established a voluntary, multi-stakeholder initiative to promote ethical recruitment: the International Recruitment Integrity System (**IRIS**). As part of certification, labour recruiters undergo an online self-assessment and, if it is positive, submit an application. This is followed by a desk review of recruiters' practice through reference to documents (policies, advertisements or contracts), which need to be submitted upon request. Next, a dedicated auditor performs an "on site" verification of how the policies are implemented by carrying out interviews with the recruiter, corporate partners and works.
7. **Online tool for rating agencies.** An online peer-review platform, allowing migrant workers to rate their experiences with using labour recruiters has been set up by the **International Trade Union Confederation**. The Recruitment Advisor (<https://www.recruitmentadvisor.org>), supported by ILO Fair Recruitment Initiative, runs an interactive website, through which a migrant worker may learn the track record of agencies, which are rated from 1 to 5 based on migrants' feedback. In addition, the website includes a chatroom, where workers may discuss their issues with consultants, as well as an online complaints form.

## **OBJECTIVE 6. Access to grievance mechanisms and dispute resolution**

### **Normative framework:**

#### *Albanian Legislation*

1. **Law no. 9668, dated 18.12, 2006 "On the Emigration of Albanian Citizens for Employment Motives":** Article 38 stipulates that private employment agencies have the obligation to take care of the persons for whom they have been employment intermediaries, to ensure that the employment contract is respected, the rights are respected and that immigrants are not subject to discrimination. Article 39 provides for the obligation to notify persons who have mediated for employment abroad and if they find that their rights are not respected.
2. As per the Albanian legislation, starting from the Constitution, Labour Code, as well as the Law on Aliens of 2021., access to court as a human right is guaranteed to all, foreign employees included. **Labour Code** regulates the right to appeal to court in several articles, including for the cases of discrimination (art. 9), presentation of corruption cases (art. 10/1), definition employment contract (Art. 12); termination of the contract (art. 146).

#### *International Principles*

1. Art. 10 of the **ILO's Private Employment Agencies Convention (No. 181)** demands that governments should establish "*adequate machinery and procedures (...) for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies*".
2. **Montreal Recommendations** specify that workers ought to access such mechanisms "*without discrimination and fear of retaliation*" and that they should be able to claim "*compensation from their recruiter in countries of origin in cases when they have been exploited by their employer in the country of destination*".



## Relevant International Practices:

1. **Complaints mechanisms envisioned by law.** Under **EU Directive 2009/52/EC** providing for minimum standards on sanctions and measures against employers of third-country nationals in an irregular situation requires that Member States introduce “*effective mechanisms through which third-country nationals in illegal employment may lodge complaints against their employers.*” (Art. 13). Such complaints may be made “*directly or through third parties*” according to national legislation “*such as trade unions or other associations or a competent authority*”.
2. **Complaints mechanisms: use of helplines or online surveys. Netherlands.** Since 2004, the Foundation for the Compliance with the Collective Labour Agreement for Temporary Agency Workers (SNCU) has operated to verify the extent to which temporary agencies, hiring migrant workers, abide by the standards of pay and working time, set in the collective labour agreement. Agency workers, temporary agencies and employers may lodge complaints with the SNCU, using either a phone helpline or online surveys, available in several language of migrant workers.
3. **Protection against deportation for workers. EU.** A 2020 recommendation by PICUM Brussels-based transnational platform on protecting undocumented workers from results of inspections exhorts national authorities in the EU to “*take measures to ensure there is no risk of immigration enforcement as a result of filing a complaint to labour inspection authorities, civil courts or labour tribunals, or engaging with labour authorities during inspections.*”
4. **Financial deposit to cover due payments to workers. France.** Before an agency may start offering intermediation services, it must submit to the local office of the Labour Inspectorate an obligatory declaration. To protect the rights of temporary workers, the agency must attach confirmation of financial capacity to pay, in case of insolvency, wages, benefits and social security contributions due to the workers.
5. **Migrant workers to be compensated for unequal pay. Germany.** Act on Temporary Agency Work requires that agency workers ought to be paid comparable wages to those enjoyed by permanent workers of the company for doing similar work. Equality extends to terms of overtime, night work, breaks, rest and paid holidays. The law grants agency workers the right to claim the difference between what they were paid and the due payment under the equal treatment principle.

## OBJECTIVE 7. Bilateral, regional and multilateral mechanisms

### Normative framework:

#### *Albanian Legislation*

1. **Albanian Constitution**, (Articles 116, 121, 122) proclaims that ratified international agreements are part of the national legislation and have priority versus the national legislation.
2. **Law no. 23/2015 ‘For the foreign service of Republic of Albania’** foresees that consular posts are required to protect the interests and rights of the Republic of Albania, of its citizens or legal entities, which are located in its consular district, within the limits allowed by international law in the host country (article. 19)
3. The Ministry for Europe and Foreign Affairs is responsible for the development of **standard guidelines for the consular service** for interviewing migrant workers to identify cases of exploitation or discrimination when they are proven.

#### *International Principles*

1. ILO’s 2022 **guidelines on bilateral labour migration agreements (BLMAs)** recommend that the documents indicate the government institutions responsible for regulating and

monitoring labour recruiters. Furthermore, they ought to define the roles and responsibilities of public employment services in both Parties to the agreement as well as the registered/licenced private employment agencies, putting in place transparent selection and placement procedures.

2. Strengthening consular cooperation, protection and assistance to migrant workers at all stages of migration is foreseen in Objective 14 of the **Global Compact for Migration**. "Migrant workers exploited in the process of recruitment" are among the categories of migrants to be assisted by consular services, which ought to be provided training "on human rights-based, gender- responsive and child-sensitive actions".

#### Relevant International Practices:

1. **Protection clauses in BLMAs.** In line with ILO's 2022 guidelines, BLMAs should in particular contain clauses prohibiting abusive and fraudulent recruitment practices, most notably the ban on charging recruitment fees and related costs to migrant workers.
2. **Costs to employers defined in BLMAs.** An ILO study, published in 2020, analyzed globally bilateral agreements, and revealed that the following costs were indicated to be paid for by employers in *most* agreements:

- return international air travel;
- internal travel and accommodation while processing;
- local transport from residence to work; and
- private employment agency fees.

Some agreements included the following costs, to be borne by employers:

- breach of recruitment;
- specialized interviewing and selection;
- language courses;
- visa;
- medical tests;
- specialized training;
- specialized testing; and
- social security enrolment.

## OBJECTIVES 8 & 9. Migrant welfare and assistance, and Maintaining the momentum on regulation

#### Normative framework:

##### *Albanian Legislation*

1. To protect citizens from trafficking, **Law no. 9668, dated 18.12, 2006 "on the Emigration of Albanian Citizens for Employment Motives"** prohibits the propaganda and use of false information by any entity, according to the provisions of the Criminal Code, when the above activity constitutes a criminal offense.
2. According to Article 8 of the above Law, the responsible state authorities or private employment agencies must provide Albanian citizens wishing to emigrate, including returned emigrants, with the right to free information and counselling in the field of vocational training, mediation services for employment, social protection, organization in unions, opportunities for housing, education and social security, as well as knowledge of living and working conditions in the host country, through media, brochures.
3. Measure C.1.3. of the **National Strategy on Migration** foresees the adoption and implementation of a regulatory and institutional framework for labour migration, and more concretely:

- a. the development of ethical recruitment guidelines for private employment agencies based on applicable legislation (including the preparation of reporting formats to be used regularly by employment agencies), as well as
- b. its publication on the website of the Ministry of Finance and Economy, National Labour Inspectorate, National Agency on Labour and Professional Formation, and at the employment offices.

### *International Principles*

1. According to Article 10 of the **Migrant Workers (Supplementary Provisions) Convention No. 143 of 1975**, ILO member states have committed themselves to introduce and enforce national policies, guaranteeing equality of opportunity and treatment of migrant workers. Under Article 9 of the Convention, irregular migrant workers “*enjoy equality of treatment for himself and his family in respect of rights arising out of past employment as regards remuneration, social security and other benefits*”.
2. National authorities need to take measures to “*ensure that the workers recruited by private employment agencies (...) are not denied the right to freedom of association and the right to bargain collectively*”. (Art. 4 of the **Convention No. 181 on Private Employment Agencies**)
3. As noted in **ILO’s General principles and operational guidelines for fair recruitment** under Principle 9: “*Governments should work to ensure that ministries and departments, agencies and other public institutions that oversee recruitment and business practices cooperate closely, as appropriate, and are aware of and observe human rights obligations when fulfilling their respective mandates*”.
4. **Montreal Recommendations** oblige governments to “*raise awareness of the need for fair recruitment in both the public and private sectors and ensure workers have access to free, comprehensive and accurate information regarding their rights and the conditions of their recruitment and employment*”.
5. **General Principle B of IRIS** introduces due diligence as a requirement for labour recruiters. Ongoing due diligence should be carried out with regard to migrant workers’ employers as well as recruitment business partners and subcontractors to verify that they “*are abiding by applicable laws and labour standards*”.

### **Relevant International Practices:**

1. **Employers accountable for compliance with workers’ rights throughout supply chains.** ILO’s **General principles and operational guidelines for fair recruitment** (Principle 3.1 of the section on ‘Responsibilities of governments’) with regard to “*labour, migration and criminal laws and other regulatory measures relating to recruitment*”, “*governments should consider setting out a clear policy expressing the expectation that all enterprises domiciled or operating in their territory or jurisdiction respect human rights, including workers’ rights, and the law on recruitment throughout their operations, including in supply chains.*”
2. **Risk assessments as part of due diligence schemes.** A 2020 IOM’s guidance for labour recruiters defines **due diligence** as “*an ongoing risk management process that a reasonable and prudent company needs to follow in order to identify, prevent, mitigate and account for how it addresses its adverse human rights impacts*”. In line with the definition, PEAs are instructed to implement the process in the following four stages: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed.
3. **Scope of mandatory notification to workers on conditions of employment.** Under **EU acquis**, employers are required to notify their workers of the contractual conditions of employment. Directive 91/533/EEC of the Council of the EU of 14 October 1991 on an employer’s obligation to inform employees of the conditions applicable to the contract or employment relationship defines the essential information that needs to be supplied to employees in writing within two months since the commencement of employment:
  - parties to the contract and place of duty,
  - description of the position,
  - starting and, if applicable, closing date of employment,
  - period of notice for termination of the contract,

- length of working day and duration of paid leave,
  - amount and structure of remuneration and schedule of payment,
  - binding collective agreement, if applicable.
- 4. Recommended channels of awareness-raising.** ILO's **General principles and operational guidelines for fair recruitment** list the following types of awareness-raising measures: government websites, "how-to" guides, public service radio/TV announcements, web seminars, involvement of employers' and workers' organizations, compliant labour recruiters and NGOs, education and training as well as awareness-raising campaigns, labour market information, pre-departure and post-arrival orientations.
- 5. Exchange of good recruitment practices.** In December 2020, IOM established the Global Policy Network on Recruitment to facilitate dialogue, knowledge transfer and exchange of good practices. The Network aims to:
- *"provide clear, practical guidance to promote policy coherence and good practices;*
  - *encourage operational and regulatory cooperation across participating jurisdictions;*
  - *establish a mechanism through which guidance and strategies can be tested and scaled, and actions taken."*