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Guide to private employment agencies

Second (revised) edition

Anna-Karin Palm Olsson, Dahee Choi and Gabriela Espinosa Erazo

Employment Policy, Job Creation and Livelihoods Department

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▶ Acronyms and abbreviations

AI	artificial intelligence
DRC	Democratic Republic of the Congo
EU	European Union
GDPR	General Data Protection Regulation (European Union)
ILO	International Labour Organization
MoU	memorandum/memoranda of understanding
NGO	non-governmental organization
PES	public employment service
POEA	Philippines Overseas Employment Administration (Philippines)
PrEAs	private employment agencies

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▶ Foreword

The transformation of labour markets, driven by globalization, technological advancements, demographic changes and new forms of employment, has opened up new opportunities, but has also brought critical challenges. One such challenge is the growing role of private employment agencies (PrEAs) in labour market intermediation, working alongside public employment services (PES). Effective regulation of PrEAs is essential for ensuring fair recruitment practices, protecting workers' rights and fostering inclusive, resilient and well-functioning labour markets. Their contribution to enhancing the efficiency, adaptability and responsiveness of labour markets is increasingly recognized as vital to overall performance.

PrEAs can play a constructive and complementary role in meeting the needs of today's dynamic labour markets. However, this potential can only be realized through sound governance aligned with international labour standards and built on effective compliance, monitoring and enforcement mechanisms. The Private Employment Agencies Convention, 1997 (No. 181) and its accompanying Recommendation (No. 188) offer a comprehensive and robust framework to guide the regulation of PrEAs. When effectively implemented, these instruments help to promote transparency, prevent illegal practices and foster cooperation between public and private actors.

This updated guide provides governments, social partners and labour market practitioners with practical insights into designing, supporting and strengthening regulatory frameworks for PrEAs. It underscores the importance of fair recruitment, the value of social dialogue and the need for adaptable regulatory systems that reflect local realities while responding to global labour trends. The guide serves as both a technical resource and a platform for policy dialogue, promoting collaboration across sectors in pursuit of decent work and fair labour market intermediation.

As labour markets continue to evolve, this guide arrives as a timely and necessary resource for policymakers and stakeholders committed to improving employment service delivery and strengthening worker protections through the effective and coherent regulation of PrEAs.

Sangheon Lee
Director
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▶ Acknowledgements

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The team was led by **Anna-Karin Palm Olsson**, Technical Specialist on Labour Market Services, and comprised **Dahee Choi**, Junior Professional Officer, **Gabriela Espinosa Erazo**, Junior Technical Officer on Labour Market Services, and Anna-Karin Palm Olsson. The team conducted comprehensive research and analysis, followed by drafting the guide's content. Their work involved gathering and synthesizing data and examples from around the world.

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▶ Executive summary

Private employment agencies (PrEAs) are increasingly important actors in labour market intermediation, playing a key role in connecting employers with jobseekers, improving labour market responsiveness and complementing public employment services (PES). However, without effective regulation, the expansion of PrEAs may also lead to risks such as worker exploitation, illegal recruitment practices and labour rights violations. A robust, coherent regulatory framework is essential so that PrEAs can operate fairly, transparently and in accordance with international labour standards.

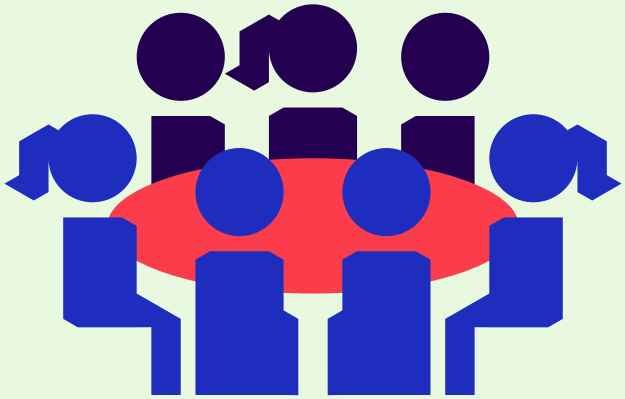
This guide offers updated guidance for the regulation and monitoring of PrEAs, as well as for the enforcement of such laws and regulations. It draws on the principles established in the Private Employment Agencies Convention, 1997 (No. 181) and the Private Employment Agencies Recommendation, 1997 (No. 188), and is framed around two key pillars: alignment with labour market demands and promoting fair recruitment practices. It provides a comprehensive resource for governments, employers' and workers' organizations, policymakers, regulators and practitioners.

Key themes of the guide include:

- **Labour market alignment:** PrEAs must adapt to the realities of evolving labour markets, including demographic shifts, emerging forms of work and digitalization. The guide explores strategies for PrEAs to remain relevant and effective in matching skills to job opportunities, including integration with national employment strategies.
- **Fair recruitment practices:** Fairness and transparency are central to recruitment. The guide highlights standards such as the ILO's *General Principles and Operational Guidelines for Fair Recruitment*, emphasizes the importance of elimination of recruitment fees for workers and identifies measures to prevent illegal and unfair practices.
- **Contribution to labour market functionality:** PrEAs contribute to the overall functionality of labour markets by helping improve efficiency, responsiveness and inclusiveness. Their role in facilitating job matching and supporting workforce adaptability is recognized as a vital component of well-functioning labour market systems.
- **International labour standards:** The framework provided by Convention No. 181 and Recommendation No. 188 supports national efforts so that PrEAs contribute positively to decent work and sustainable employment. Together, these instruments offer technical guidance and promote coherence between public and private actors.
- **Regulatory frameworks:** The guide outlines legal and policy approaches to regulating PrEAs, stressing the importance of compliance mechanisms, inspection systems and licensing requirements. It highlights the role of governments in setting and enforcing regulations for PrEA operations.
- **Monitoring and oversight:** Regular inspections, reporting obligations and enforcement actions are vital for maintaining accountability. The guide details monitoring tools and the role of competent authorities in ensuring adherence to legal and fair standards.
- **Migration and cross-border recruitment:** PrEAs often play a central role in international labour migration. The guide explores regulatory options to manage cross-border recruitment, protect migrant workers and prevent discriminatory or abusive practices through bilateral and multilateral cooperation.
- **Social dialogue:** Effective governance of PrEAs depends on inclusive social dialogue. The guide underscores the importance of collaboration among governments, employers' and workers' representatives to shape regulatory approaches that reflect shared interests, strengthening trust in labour market institutions.
- **Digitalization and innovation:** With technological advancements reshaping employment services, the guide discusses the integration of digital tools and platforms, the rise of algorithmic hiring and the importance of maintaining human-centred approaches.
- **Country case studies and best practices:** To support practical implementation, the guide includes examples from diverse national contexts. These highlight innovations in regulation, enforcement strategies and

collaborative models that contribute to effective employment services.

This guide builds on the ILO's long-standing commitment to promoting decent work through well-regulated labour market institutions. By reinforcing the role of PrEAs in line with international standards, the guide aims to support inclusive, responsive and fair employment services. It encourages Member States to take proactive steps in strengthening regulation and promoting partnerships that advance decent work, worker protection and economic development.



▶ 1. Introduction

In today's rapidly evolving labour markets, employment services play a key role in facilitating job opportunities, addressing workforce needs and promoting labour market efficiency. However, transformations in the world of work have reshaped labour market structures and functions, creating both opportunities and challenges. Technological advancements, demographic challenges and the emergence of new forms of employment have profound implications for labour market dynamics. In response, employment services must continuously develop and adapt themselves to labour market demands while upholding fair recruitment practices and respecting the fundamental principles and rights at work.

Public employment services (PES) remain central to national employment strategies and are there to organize, optimize and promote inclusive labour markets. At the same time, private employment agencies (PrEAs) can complement PES by improving access to job opportunities, supporting businesses in meeting their workforce needs and enhancing labour market responsiveness. However, as the expansion of PrEAs and the private sector's role in employment services continues to grow, effective governance and oversight are required to prevent exploitative practices and unfair competition from unauthorized labour intermediaries operating outside the regulatory framework. An absence of adequate regulation exacerbates both labour market inefficiencies, such as skills mismatches, and labour rights abuses, such as worker exploitation, forced labour, fraudulent job placements and illegal labour practices. A well-regulated employment services sector is essential for promoting transparency, inclusiveness, fairness and legal compliance, while meeting labour market demands and advancing the protection of workers. This requires the upholding of international labour standards, including adequate mechanisms for compliance and enforcement. Effective regulation not only supports fair recruitment and prevents abusive practices but also helps to build trust in labour market institutions.

To assist International Labour Organization (ILO) constituents in achieving and maintaining full employment, and in developing and utilizing productive resources, the ILO has developed key international labour instruments that regulate both public and private employment services. The Employment Service Convention, 1948 (No. 88) and the Private Employment Agencies Convention, 1997 (No. 181), along with their accompanying Recommendations, form a normative framework aimed at promoting full, productive and freely chosen employment and decent work conditions, including advancing fair recruitment practices. These instruments recognize the evolving nature of labour markets, emphasize the need to promote cooperation between PES and PrEAs and provide concrete guidance on how such collaboration can be achieved while safeguarding worker protections.

Accompanying Convention No. 181, the Private Employment Agencies Recommendation, 1997 (No. 188) provides further guidelines for implementation. Recommendation No. 188 suggests that laws and regulations governing PrEAs be supplemented by technical standards, guidelines and codes of ethics, and encourages Member States to share experiences and best practices regarding the contributions of PrEAs to labour markets, thereby reinforcing international cooperation. The Recommendation also highlights considerations related to self-regulatory mechanisms, worker protection and the development of relationships between PrEAs and PES, as well as alignment with national practices. Additionally, as part of the broader commitment to decent work, frameworks for PrEAs should align with the Fundamental Principles and Rights at Work,[1] as defined by the ILO. These principles include freedom of association, the elimination of forced and child labour, non-discrimination in employment and the right to collective bargaining.

This guide provides an overview of key elements in drafting and implementing regulation, offering insights for policymakers and stakeholders on how to address related challenges through regulatory guidance and country-specific examples. The guide is structured around two key pillars: **labour market alignment** and **fair recruitment practices**. The first pillar focuses on the importance of adapting PrEA operations to evolving labour market demands by incorporating practices that

[1] ILO, ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, International Labour Conference, 86th Session, 2010.

reflect local contexts while responding to global trends. This supports PrEAs in providing an effective bridge between jobseekers and employers. The second pillar focuses on promoting fair recruitment practices and demonstrates how efficient regulation and monitoring contribute to transparent and fair recruitment processes while respecting workers' freedom of choice in employment. These practices enhance worker protection, promote decent work and foster accountability in recruitment operations.

While the abolition of forced labour and child labour are critical concerns, this guide primarily focuses on recruitment dynamics among PrEAs and does not explore these issues in depth. However, in line with Convention No. 181 and Recommendation No. 188, Member States are required to take all necessary measures to prevent the violation of, and secure respect for, the fundamental principles and rights at work and to eliminate illegal practices by PrEAs. This includes implementing relevant laws and regulations, imposing penalties for non-compliance and prohibiting agencies' involvement in illegal recruitment practices. The obligation on Member States to take measures to ensure that child labour is neither used nor supplied by PrEAs is also expressed in Article 9 of Convention No. 181.

This guide also highlights the importance of the role of social dialogue as a cornerstone of efforts to foster collaboration between governments, employers and workers to promote fair and inclusive labour market practices. Reflecting its fundamental importance to the ILO's mission, social dialogue is embedded in Convention No. 181 as well as in its accompanying Recommendation, and it should serve as the overarching lens through which this entire guide is read. It plays a crucial role in shaping regulatory frameworks and operational standards for PrEAs, strengthening trust among stakeholders, facilitating consensus-building and incorporating diverse perspectives into policy development.

Finally, this updated guide underscores the broader framework of employment services, recognizing the roles of both PES and PrEAs in mitigating labour market disruptions, facilitating workforce transitions and enhancing labour market resilience. The employment services landscape includes a diverse range of actors. Although platform work operators do not fall within the scope of the definition provided by Convention No. 181, it is important to recognize that future regulatory developments concerning these emerging actors could have implications for the application of relevant frameworks. The guide aims to reflect the ILO's commitment to advancing sustainable and inclusive labour markets that respond to the needs of workers, employers and economies. By incorporating these principles, this guide aims to provide practical and actionable insights for stakeholders involved in the regulation and monitoring of PrEAs. Through contemporary examples of regulatory approaches and their impact on labour market efficiency, it highlights various strategies for addressing common challenges.

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▶ 2. Background and context

The Employment Policy Convention, 1964 (No. 122) is the governance Convention for all international labour standards related to employment. Article 1 sets out the objective of "full, productive and freely chosen employment". Full employment is understood that "work for all who are available for and seeking work", aligning with the fundamental right to work. [2] Productive employment is defined as employment that yields a sufficient level of income. [3] Freely chosen employment consists of two aspects. First, no person shall be compelled or forced to undertake work that has not been freely chosen or accepted, nor should they be prevented from leaving work if they so wish. Second, all individuals should have the opportunity to acquire qualifications and to use their skills and endowments free from any form of discrimination.[4]

Building on these principles, Convention No. 181 is the most up-to-date international instrument concerning PrEAs. It serves as the global benchmark for regulations governing their activities, obligations and responsibilities. With the aim of enabling the operation of PrEAs and recognizing their contribution to the functioning of the labour market while protecting those who use their services, the ratification and implementation of Convention No. 181 contribute to the broader goal of achieving full, productive and freely chosen employment. This is consistent with the United Nations' *Guiding Principles on Business and Human Rights* (the Ruggie principles), [5] which call for both state protection and corporate responsibility in respecting human rights, including throughout the recruitment processes.

Convention No. 181

Following the establishment of the ILO, its tripartite constituents (governments, employers and workers) viewed public authorities as the only legitimate actors in balancing labour market supply and demand, and as the custodians of equitable inclusion for all. Setting the first international standards for PES, the Unemployment Convention, 1919 (No. 2) called on Member States to establish and maintain, under the control of a central authority, a system of free public employment agencies (Article 2(1)). Convention No. 2 acknowledged the existence of private free employment agencies, [6] requiring that Member States take steps to coordinate the operations of public and private agencies on a national scale (Article 2(2)). While Convention No. 2 made no mention of private profit-seeking intermediaries, its accompanying Recommendation encouraged the prohibition of fee-charging agencies.[7]

With the adoption of the Fee-Charging Employment Agencies Convention, 1933 (No. 34), Member States were required to abolish for-profit fee-charging agencies within three years of ratification (Article 2(1)). Exceptions to the abolition could be allowed by the competent authority under Article 3 but only following consultations with the social partners. In the meantime, fee-charging agencies not operated for profit were allowed to function, but only with the authorization and under the supervision of the competent authority (Article 4).

Fifteen years later, Convention No. 88 firmly placed PES at the core of labour market facilitation. In Article 1(2), PES are assigned the essential duty of promoting the best possible organization of the labour market, in cooperation, where necessary, with other public and private bodies. Marking a shift towards a more dualistic system, the Convention recognized the contributions of private agents to the organization of the labour market.[8] With the adoption of Convention No. 88, a new approach to labour market intermediation became necessary, leading to the adoption of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) shortly thereafter. Revising Convention No. 34, Convention No. 96 allowed Member States to choose between progressively abolishing for-profit fee-charging agencies and regulating other agencies (by

[2] ILO, Promoting employment and decent work in a changing landscape, International Labour Conference, 109th Session, 2020, para. 54.

[3] International Labour Conference, 109th Session, para. 56.

[4] International Labour Conference, 109th Session, para. 69.

[5] United Nations, *Guiding Principles on Business and Human Rights*, 2011.

[6] As noted by the Committee of Experts in its 2010 General Survey – ILO, *General Survey concerning employment instruments in light of the 2008 Declaration on Social Justice for a Fair Globalization* (hereafter 2010 General Survey), International Labour Conference, 99th Session, 2010, para. 188.

[7] Unemployment Recommendation, 1919 (No. 1), para. I.

[8] As noted by the Committee of Experts in its 2010 General Survey, para. 188.

accepting the provisions of Part II of the Convention) or allowing a system of coexistence[9] between public and private actors (by accepting the provisions of Part III).

By the 1990s, the changing dynamics of the labour market led to another revision of Convention No. 96, aiming to balance flexibility in labour market operations with the need to protect workers against potential abuses. Signalling the development of a new paradigm in regulatory approach, [10] Convention No. 181 and Recommendation No. 188 were adopted in 1997, revising Convention No. 96 and establishing the up-to-date international standards for the operation of PrEAs.

Provisions of the Convention

Article 1 of Convention No. 181 defines PrEAs as natural or legal persons that, while operating independently of public authorities, provide labour market services, including the matching of jobseekers with vacancies. The Convention applies to all PrEAs as defined in Article 1, covering all categories of workers and all branches of economic activity, with the exception of seafaring.

▶ **Box 2.1.**
Private Employment Agencies Convention, 1997 (No. 181), Article 1, Paragraph 1

For the purposes of this Convention the term **private employment agency** means any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:

(a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;

(b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a "user enterprise") which assigns their tasks and supervises the execution of these tasks;

(c) other services relating to jobseeking, determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment.

Source: Convention No. 181.

As defined in Article 1(1a), PrEAs can act as employment mediators, matching offers of and applications for employment. Examples in this category include intermediaries, overseas employment agencies and agencies involved in the recruitment and placement of foreign nationals, as well as training and placement institutes. PrEAs also include, as defined in Article 1(1b), agencies that employ workers for the purpose of making them available to a third party. This is the case of temporary work agencies, which recruit and employ workers to make them available to a user enterprise; in turn, the user enterprises assign tasks to workers and supervise them. A third category, as defined in Article 1(1c), consists of agencies that provide other services related to job search, such as career guidance, labour market information or job search consulting.

Convention No. 181 sets out clear obligations for the protection of all workers who receive PrEA services. This includes the right to freedom of association and collective bargaining (Article 4), equality of opportunity and treatment in access to employment and to particular occupations (Article 5), protection of personal data and respect for workers' privacy (Article 6) and the prohibition of child labour (Article 9).

Articles 11 and 12 of the Convention, meanwhile, provide specific protections for workers of temporary work agencies assigned to user enterprises. In particular, Article 11 calls on Member States to take

[9] As noted by the Committee of Experts in its 2010 General Survey, para. 195.

[10] Standards Review Mechanism Tripartite Working Group (SRM TWG), Technical Note 3: Instruments Concerning Private Employment Agencies, 2019.

measures to ensure the adequate protection of workers' rights, including rights related to freedom of association and collective bargaining, working time and conditions, occupational health and safety, and statutory social security benefits. Under Article 12, Member States are required to determine and allocate responsibilities between temporary work agencies and user enterprises for protecting these rights, in accordance with national legislation and practice.

Convention No. 181 recognizes the principle that workers shall not be charged, directly or indirectly, any fees or related costs for their recruitment. Under Article 7(1), the Convention contains a general prohibition on charging workers such fees or costs, in whole or in part. When they are in the interest of the workers concerned and relate to certain categories of workers or specified types of PrEA services, national exceptions may be authorized following consultations with the most representative organizations of employers and workers (Article 7(2)) (box 2.2).[11] Ratifying States shall, as part of their reporting obligations, provide information to the ILO on such exceptions and give reasons for their use (Article 7(3)).

▶ Box 2.2.
Private Employment Agencies Convention, 1997 (No. 181), Article 7: General prohibition of charging fees or other costs to workers and the use of justified exemptions

As highlighted by the ILO Committee of Experts in its General Survey concerning employment instruments, Article 7, Paragraph 1 of Convention No. 181 contains a **general prohibition on the charging of fees or other costs, directly or indirectly, in whole or in part, to workers**. While exemptions may be authorized by Member States through Article 7, Paragraph 2, the Committee noted in its General Survey that the use of justified exceptions to the non-charging of workers is subject to the principles of consultation, transparency and reporting.

- *Consultation* with the social partners is necessary prior to the authorization of exemptions and central to the principle that exemptions are not made that might harm workers.
- *Transparency* in the use of exemptions requires that they are made explicit, via an appropriate legislative framework, indicating that they are limited to certain categories of workers or to specific types of services. These recruitment fees and related costs are to be disclosed to workers prior to the start of their work.
- As part of their *reporting* obligations under Article 22 of the ILO Constitution, ratifying countries are to provide the ILO with the reasons for making use of such exemptions.

Source: Committee of Experts in its 2010 General Survey (paras. 332-334).

Together with Convention No. 88, Convention No. 181 emphasizes the importance of cooperation between PES and PrEAs in supporting well-functioning labour markets. While Convention No. 88 advocates for PES as a central instrument for the implementation of governments' employment and labour market policies, Convention No. 181 highlights the complementary role of PrEAs. Article 13(1) of Convention No. 181 calls for Member States to, "in accordance with national law and practice and after consulting the most representative organizations of employers and workers, formulate, establish and periodically review conditions to promote cooperation between the public employment service and private employment agencies".[12] Further guidance on fostering these partnerships is provided in Recommendation No. 188, which outlines various measures to encourage collaboration between PES and PrEAs. These include pooling information, using common terminology, exchanging information on

[11] In line with Article 7(2), the *ILO Definition of Recruitment Fees and Related Costs* recognizes some degree of flexibility to allow the competent authority to authorize exceptions to the principle prohibiting the charging of recruitment-related costs to workers and jobseekers. This is discussed further below.

[12] For more information on the conditions for collaboration under Article 13 of Convention No. 181, see section 4 below.

vacancies, launching joint projects and providing staff training, among others.

Beyond the instruments

While Convention No. 181 and Recommendation No. 188 set the international benchmark for PrEA regulations, additional guidance is essential to promote fair recruitment practices both within and across national borders.

The ILO's *General Principles and Operational Guidelines for Fair Recruitment*[13] offer a comprehensive framework for the development, implementation and enforcement of laws and policies aimed at promoting fair recruitment practices. Rooted in international labour standards, including Conventions No. 88 and No. 181 as well as other related ILO instruments, these non-binding guidelines provide practical direction for recruitment processes that protect workers' rights while addressing labour market needs. Additional sources for principles and guidelines include binding standards (for instance, the Migration for Employment Convention (Revised), 1949 (No. 97), Maritime Labour Convention, 2006, the Domestic Workers Convention, 2011 (No. 189), the Protocol of 2014 to the Forced Labour Convention, 1930), as well as non-binding standards (such as the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)).[14]

The principles and guidelines are designed to cover the recruitment of all workers, whether recruited within national borders or across them. Importantly, this distinction is separate from the status of workers as nationals or migrants. For instance, migrant workers may be recruited after arrival in the destination country, meaning the recruitment occurs within national borders, but they may still face vulnerabilities due to their migration status or other factors. The principles and guidelines acknowledge these challenges and highlight the need for targeted strategies and actions, including measures by public and private employment services to support the labour market integration of migrant workers. This inclusive approach shows that fair recruitment practices apply to all workers, with those in more vulnerable situations requiring particular attention.

The general principles help to orient the implementation of fair recruitment at all levels, while the operational guidelines focus on the responsibilities of specific actors, such as governments, PES, labour recruiters[15] and employers. However, this guide focuses on recruitment conducted through PrEAs. The responsibilities of specific actors include protecting workers' rights, addressing forced labour risks, fostering effective labour market functioning and efficient skills matching, reducing the costs of labour migration and promoting workforce development, among other objectives.

These principles and guidelines are accompanied by the ILO's *Definition of Recruitment Fees and Related Costs* (hereafter the Definition) which, in line with Article 7(1) of Convention No. 181, recognizes the principle of the non-charging of workers. Paragraph 7 of the Definition states that "recruitment fees or related costs should not be collected from workers by an employer, their subsidiaries, labour recruiters or other third parties providing related services. Fees or related costs should not be collected directly or indirectly, such as through deductions from wages and benefits". [16] The non-charging principle therefore encompasses any fees or costs incurred in the recruitment process, irrespective of the manner, timing or location of their collection (paragraph 6).[17]

In addition, in line with Article 7(2) of Convention No. 181, the Definition recognizes that there is flexibility for the competent authority to make exceptions to the applicability of costs related to recruitment, consistent with relevant international labour standards, through national regulations and after consulting the most representative organizations of employers and workers. Such exceptions should be subject to specific

[13] ILO, *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs*, 2019.

[14] For a comprehensive list of sources, please refer to ILO, *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs*, 2019.

[15] "[T]he term labour recruiter refers to both public employment services and to private employment agencies and all other intermediaries or subagents that offer labour recruitment and placement services. Labour recruiters can take many forms, whether for profit or non-profit, or operating within or outside legal and regulatory frameworks", ILO, *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs*, 2019, Part 1, p. 12.

[16] ILO, *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs*, 2019, Part 2, p. 28.

[17] This Definition should always be read alongside the *General Principles and Operational Guidelines for Fair Recruitment*.

conditions, including that they are in the interests of the workers concerned, limited to certain categories of workers and specified types of services, and that the corresponding related costs are disclosed to the worker before the job is accepted (section 11). Together, the ILO's *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs* help to promote and support fair recruitment for all workers, complementing international labour standards in offering guidance for PrEA regulations and operations.

With a view to supporting the operationalization of the *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs*, the ILO has implemented its Fair Recruitment Initiative. Under its umbrella, a wide range of operational tools, research on emerging practices and advisory services have been delivered to support constituents in more closely aligning law and practices with ILO guidance and relevant standards. The Fair Recruitment Initiative places greater emphasis on the practical implementation and enforcement of available guidance, as well as on the adaptation of practices across diverse sectors of the economy and geographic contexts.

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▶ 3. Legislative framework and oversight for PrEAs

This section explores the regulatory frameworks and oversight mechanisms governing PrEAs, as well as the systems in place for their governance and monitoring. As the role of PrEAs continues to evolve in response to the complexities of modern labour markets, it is increasingly important to assess the ongoing effectiveness and relevance of these regulatory approaches.

Three main approaches to regulation

Three main approaches to regulating PrEAs have emerged over time, each reflecting differing views on their role and the extent of oversight considered necessary.[18]

The first approach, prohibition, was prevalent prior to the adoption of Convention No. 181 and involves outright bans on for-profit PrEAs. These bans were introduced in response to concerns about the exploitation of workers and illegal and irregular recruitment practices, aiming to prevent harm by disallowing PrEA operations entirely. However, this approach is often viewed as limiting the labour market's ability to adapt to changing needs. Prohibition can be ineffective in practice, as PrEAs may continue to operate informally in response to labour market demands. Banning formal PrEAs can also contribute to the growth of informal recruitment practices carried out by unregulated recruiters, brokers or sub-agents. This shift can increase the risk of workers being subjected to debt bondage, withholding of wages and forced labour, as these informal recruitment channels operate outside any regulatory or legal framework, freeing such recruiters of any accountability.

The adoption of Convention No. 181 marked a turning point by proposing a regulatory framework that introduced a more balanced approach. This shift reflected a growing recognition of the potential role that PrEAs could play in improving labour market efficiency when operating under adequate regulatory oversight. Within this framework, outright prohibition was largely replaced by approaches that allow regulated and accountable participation of PrEAs in labour markets.

The second approach is strict regulation, characterized by comprehensive oversight mechanisms. Under this approach, PrEAs are expected to operate within frameworks that promote strong accountability, compliance with labour standards and coordination with PES.

The third approach involves minimal regulation, where PrEAs operate under limited oversight. This approach embodies a more liberal stance, emphasizing voluntary compliance and self-regulation by private agencies, in addition to formal regulation.

These three main approaches (prohibition, strict regulation and minimal regulation) reflect the evolution of countries' efforts to manage PrEAs' operations within their labour markets.[19]

The rest of this section introduces key elements such as governance and legal status, regulatory frameworks, operations, oversight mechanisms, and self-regulation and compliance incentives. These aspects are essential to understand how countries have adapted their regulatory strategies for PrEAs to balance labour market demands with worker protection, fair recruitment practices and accountability in a rapidly changing and globalized labour environment.

Governance and legal status

Organization or official responsible

National regulations often specify the administrative authorities responsible for regulating and monitoring the activities of PrEAs. Clearly and unambiguously designating these authorities enhances both the effectiveness and legitimacy of the monitoring process

[18] For a detailed discussion on the policy debate surrounding PrEAs, see ILO, The role of private employment agencies in the functioning of labour markets, International Labour Conference, 81st Session, 1994.

[19] ILO, Guide to Private Employment Agencies: Regulation, Monitoring and Enforcement, 2007.

by reducing the risk of overlapping responsibilities and minimizing gaps in competence.

In many countries, the organization or official tasked with monitoring PrEAs typically operates within a governmental ministry or agency, such as the Ministry of Labour. However, depending on the national context, different types of competent authorities may be involved in the regulation and enforcement processes (table 3.1). In such cases, cooperation mechanisms and procedures can contribute to a more coherent implementation of employment and labour market policies. These enforcement actors can play a pivotal role in supporting PrEAs to operate legally and transparently, thereby fostering trust in recruitment systems and mitigating the risk of potential abuses, so that those PrEAs which comply with regulations are not unfairly disadvantaged by unregulated intermediaries. The enforcement actors are often tasked with a range of responsibilities, including oversight responsibilities, implementing enforcement mechanisms and imposing penalties for non-compliance.

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▶ Table 3.1. Typologies of authorities responsible for governance and enforcement of PrEA regulation (non-exhaustive)

Typology	Description	Examples
Governmental bodies	National ministries and agencies responsible for labour market regulation, licensing and oversight.	Ministry of Labour, labour inspectorates, employment standards agencies.
Quasi-governmental bodies	Organizations that operate with government backing but with some autonomy, often working alongside private sector actors.	PES, national tripartite councils.
Judicial and law enforcement agencies	Institutions responsible for legal adjudication and enforcement of laws related to employment and recruitment.	Labour courts, police anti-trafficking units.
International and regional organizations	Bodies that provide guidelines, monitor compliance and promote fair labour recruitment at regional or global levels.	ILO, European Union, African Union.
Private recruitment agency associations and industry bodies	Industry associations that represent the interests of private recruitment agencies. While not enforcement bodies, they promote compliance through strategic partnerships and self-regulation, contributing to adherence to legal frameworks.	World Employment Confederation, national associations of private employment agencies.
Embassies/consulates	These entities can play a role in monitoring recruitment compliance, vetting employment contracts or visiting work sites before migration. They can act as a first level of complaint resolution for, and may engage in mediation processes with, recruitment agencies or employers.	Embassies/consulates with labour attachés, diplomatic missions in destination countries, Ministry of Foreign Affairs' labour sections.

Source: Authors.

Different countries have developed various governance and enforcement mechanisms (table 3.2). In the United Kingdom, the Employment Agency Standards Inspectorate oversees PrEAs, monitoring adherence to legal requirements. In addition, the Gangmasters (Licensing) Act 2004 established a compulsory licensing regime for labour providers and employment agencies operating in specific sectors, such as agriculture. The Act also created the Gangmasters and Labour Abuse Authority (GLAA), a non-departmental public body sponsored by the Home Office. The GLAA is responsible for licensing, compliance inspections and investigating potential violations under the Act. [20] The Philippine Overseas Employment Administration (POEA) has the role of monitoring and regulating agencies that recruit workers for overseas jobs and enforcing licensing and fair recruitment standards.[21] Similarly, in Germany, the *Bundesagentur für Arbeit* (Federal Employment Agency) oversees both public and private employment services in support of fair hiring practices.[22] At a regional level, the European Labour Authority (ELA) coordinates cross-border employment regulations within the European Union (EU), enhancing cooperation between national labour inspectorates.[23]

Another component vital to the improvement of governance and enforcement is that governments equip the responsible actors with adequate resources and authority. Honduras demonstrates a structured approach by defining the scope of regulatory responsibilities and providing a dedicated enforcement

[20] ILO, *Labour Inspection and Monitoring of Recruitment of Migrant Workers: Technical Brief*, 2022.

[21] Migrant Workers and Overseas Filipinos Act of 1995.

[22] Bundesagentur für Arbeit, "Aktivierungs- und Vermittlungsgutschein (AVGS) für private Arbeitsvermittlung".

[23] ELA, "Home".

body, with the State Secretariat for Labour and Social Security serving as the competent authority responsible for regulating PrEAs. The General Directorate of Employment in Honduras[24] is mandated to oversee the registration, authorization and supervision of PrEAs, whether operating for profit or as non-profit entities. To further strengthen enforcement, Honduras established the Department of PrEA Regulation within the General Directorate of Employment. This specialized department is tasked with maintaining an official registry of PrEAs, implementing measures to prevent illegal fee charges to workers, expediting and renewing licences, and ensuring continuous supervision of agency operations.

▶ **Table 3.2. Typologies of enforcement mechanisms for PrEAs (non-exhaustive)**

Typology	Description	Examples
Preventive enforcement	Measures taken to ensure compliance before violations occur.	Licensing, registration, accreditation, training programmes, codes of conduct.
Positive enforcement	Incentives or other means for encouraging compliance in a positive way.	Facilitated licensing renewal procedures, attribution of specific recruitment quotas, prizes and awards for best practices.
Reactive enforcement	Mechanisms that respond to complaints, grievances or detected violations.	Inspections, worker hotlines, labour ombudsman, coordination with other enforcement actors (including embassies/attachés).
Punitive enforcement	Sanctions and penalties imposed on PrEAs that violate regulations.	Fines, licence revocation, criminal prosecution.
Collaborative enforcement	Joint efforts between regulators, employers, civil society and other actors to enhance compliance and share responsibility.	Public–private partnerships, industry codes of conduct co-developed with social partners, multi-stakeholder monitoring initiatives.
Community-based monitoring	Monitoring led or supported by workers, migrants or local communities to track compliance and raise awareness.	Worker unions and committees, non-governmental organization (NGO)-led site visits, community reporting platforms, peer educator programmes.

Source: Authors.

A governance and enforcement framework for the regulation of PrEAs can be developed on principles of accountability, efficiency and worker protection. Regulatory authorities must not only monitor compliance but also proactively identify risks, prevent exploitative practices and facilitate fair recruitment processes. This could involve a multi-faceted approach that includes regular audits, unannounced inspections and mechanisms for workers to report grievances without fear of retaliation.

Collaboration between governance and enforcement bodies, social partners and international organizations can contribute to strengthening oversight by promoting best practices and facilitating information-sharing. In addition, digital tracking systems and transparent reporting requirements can support real-time monitoring of PrEA operations.

Legal status

Serving as the foundation for PrEA regulations, clear legal status and conditions governing their operations are necessary for PrEAs to function in a lawful and accountable manner. In line with Article 3(1) of

[24] Regulation for the Operation of Private Employment Agencies and Related Services, issued via Agreement No. STSS-141-2015 and Agreement No. STSS-155-2017.

Convention No. 181, Member States shall determine the legal status of PrEAs in accordance with national law and practice, and after consultation with the most representative employers' and workers' organizations. In addition, under Article 3(2), the Convention obliges States to set out the conditions governing PrEA operations under a licensing or certification system, except where they are otherwise regulated or determined by national law and practice. Member States may meet this obligation directly through a system of legislation, licensing or certification. It can also be met indirectly, by the Member State authorizing an existing national practice (or one that is to be established) for such regulation.[25]

While both certification and licensing systems require a regulatory framework, the former requires PrEAs to be registered with the responsible administrative authorities, while the latter requires PrEAs to acquire authorization before starting their operations. For Member States, this requirement helps to promote the proper functioning of PrEAs and increases transparency in the labour market, while also aiding national authorities to direct their employment policies and improve the functioning of the labour market. [26] Alternatively, Member States may regulate PrEAs using appropriate national law and practice, in line with Article 3(2), as long as these are properly enforced.[27]

Depending on their national circumstances, Member States may vary their approaches to the operational framework for PrEAs. In Sri Lanka, the Bureau of Foreign Employment Act No. 21 of 1985, along with its subsequent amendments, sets out a detailed licensing framework for foreign employment agencies. Under this law, no person or entity other than the Bureau itself may operate as a foreign employment agency without holding a valid licence issued in accordance with the Act. Applicants are required to provide comprehensive information, including legal status, ownership structure, citizenship status of stakeholders and details of business premises and facilities.

Panama, having ratified Convention No. 181 in 1999, introduced a licensing system via Executive Decree No. 32 (2016), granting the Ministry of Labour and Workforce Development the authority to approve, suspend, deny or revoke licences. The decree also outlines the requirements for obtaining authorization to operate, the obligations of PrEAs and prohibited practices, assigning responsibility for regulating PrEA operations to the Ministry's General Directorate of Employment. Further strengthening oversight, in 2023, the Ministry established the Department of PrEA Regulations within the General Directorate of Employment to streamline licensing procedures, oversee compliance and manage complaints against PrEAs.[28]

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[25] As noted by the Committee of Experts in its 2010 General Survey, para. 240.

[26] As noted by the Committee of Experts in its 2010 General Survey, para. 246.

[27] As noted by the Committee of Experts in its 2010 General Survey, para. 249.

[28] Executive Decree No. 32 of 2016, *Which regulates the operation of Private Placement Agencies; Ministerial Resolution DM-136-2023, Which creates the Department for the Regulation of Private Employment Agencies and Version No. 1 of the Manual of procedures and functions of this administrative unit*.

Regulatory frameworks

As discussed in the previous section, countries may adopt different regulatory frameworks for PrEAs based on their specific contexts (table 3.3). In line with Convention No. 181, regulatory frameworks can include a licensing system, monitoring and compliance requirements, and other relevant regulations, such as data protection.

▶ Table 3.3. Regulatory approaches to PrEAs

Regulatory model	Key features	Implications
Licensing system[29]	Requires PrEAs to obtain a licence before operating their services. This may involve paying registration and licensing fees, proving financial capabilities, such as minimum capital to operate agencies, qualifications, lawful behaviour and work experience or educational background.	Contributes to guarantees and quality control by creating entry barriers and administrative obligations.
Monitoring and compliance[30]	Continuous oversight through examination of validity of licence, regular audits, reporting obligations and on-site inspections by relevant authorities.	Enhances cohesion and adherence to labour standards, including compliance with national labour laws and other relevant regulations for PrEAs.
Information sharing[31] **and transparency regulations**	PrEAs must provide accurate, accessible and timely information to jobseekers about job openings, terms and conditions of employment, particularly under contract arrangements. PrEAs are required to submit regular reports to competent authorities on their structure and activities, and for statistical tracking, respecting confidentiality. Information must be comprehensible and available in languages understood by workers.	Enhances transparency in the recruitment process, empowering workers to make informed choices and reducing the risk of deception or exploitation. Enables governments to monitor market trends, detect irregularities and enforce compliance. Requires active oversight and capacity on the part of authorities to collect, process and act on the information provided.
Data protection and privacy regulations[32]	Establishes rules on handling, storing and sharing jobseekers' personal data. This may include worker consent requirements and restrictions on data sharing.	Protects jobseekers from data misuse and privacy violations but may require PrEAs to establish compliance systems and data security measures.

Source: Authors.

[29] Article 3(2) of the Private Employment Agencies Convention, 1997 (No. 181).

[30] Articles 10 and 14 of the Private Employment Agencies Convention, 1997 (No. 181).

[31] Article 8 of the Private Employment Agencies Recommendation, 1997 (No. 188) and Article 7(1) of the Migrant Workers Recommendation, 1975 (No. 151).

[32] Article 6(a) of the Private Employment Agencies Convention, 1997 (No. 181).

One such example is the Democratic Republic of the Congo (DRC), where the Ministry of Labour regulates and monitors PrEAs through an oversight system. PrEAs in the DRC are required to uphold transparency in reporting their activities, with non-compliance leading to sanctions, such as fines, suspension or revocation of licences. Additionally, PrEAs must comply with regular reporting obligations and maintain the confidentiality of jobseeker data when they are exchanging job vacancy information. Under the PrEA regulation in the DRC, laws regarding anti-discrimination and anti-corruption exist to prohibit PrEAs from engaging in discriminatory practices or illegal activities.[33]

Integration with national policies

To promote cohesive policy frameworks, regulations governing the activities of PrEAs are encouraged to be aligned with a country's national employment policies and migration policies, where applicable (box 3.1). This alignment enables PrEAs to be part of a coordinated effort to pursue national objectives, such as promoting decent work, supporting formalization, addressing skills mismatches and increasing labour market participation. In doing so, it is important to underscore the principle that PES retain the final authority over the formulation of the national employment policy, as well as the utilization and management of public funds allocated for its implementation. Private actors, including PrEAs, operate in a complementary role under the strategic direction and oversight of national institutions, helping to maintain public accountability and alignment with broader goals.

In countries where PES are limited in reach or capacity, PrEAs can serve as a crucial link between jobseekers and employers. In such contexts, PrEAs take on greater responsibility for promoting fair recruitment, transparency and worker protection. Aligning PrEA regulations with national labour and migration policies becomes especially important to prevent the proliferation of unscrupulous agencies and exploitation of workers and employers. In Australia, where PES are fully outsourced, PrEAs play a central role in delivering employment services. The Government maintains oversight through outcome-based payments, a star ratings performance system and mandatory certification under the Quality Assurance Framework to guarantee the quality and integrity of services delivered by private actors. Australia's fully outsourced employment services model has led to greater efficiency but also raised concerns about reduced individualized support and limited access for some groups. Persons with disabilities, Indigenous Australians and single parents often experience less favourable employment outcomes. In response, the Government has expanded collaboration with community-based organizations and developed targeted programmes to offer more tailored and inclusive services, aiming to improve support for those with diverse needs. This highlights the need for ongoing oversight and inclusive policy design to achieve equitable outcomes in a privatized employment services model.[34]

Germany also provides an example of how the regulation of PrEAs can support broader national employment objectives. The Act on Temporary Agency Work [35] is the specific legislation governing PrEAs, enacted to prevent the exploitation of temporary workers while promoting fair wages and conditions. This legislation is aligned with broader national employment strategies aimed at fostering decent work, reducing job insecurity and promoting the formalization of employment. Additionally, Germany's active labour market policies (ALMPs), such as training programmes for unemployed workers and initiatives to address labour market mismatches, are supported by PrEAs, which help to place workers in available jobs that match their skills and qualifications. This holistic approach can assist in strengthening workforce development and economic integration while contributing to long-term national goals, like skills development and economic growth.

[33] Act No. 015/2002 of 16 October 2002 pertaining to the Labour Code; Ministerial Order No. 047/CAB.VPM/METPS/2015 of 8 October 2015 amending and supplementing Ministerial Order 12/CAB.MIN/TPS/062/08 of 18 September 2008 laying down the terms and conditions for the opening, approval and functioning of private recruitment services.

[34] Gael De Moraes, Sofia Gomez Tamayo and Andrea Petrelli, *The Delivery of Employment Services in a Multi-Country Case Study Series: Australia* (World Bank, 2022).

[35] Act on Temporary Agency Work, 1995, latest amendment 2024 (*Arbeitnehmerüberlassungsgesetz* – AÜG).

Box 3.1.
Aligning PrEAs with national policies: Changing labour market dynamics in Ethiopia

Ethiopia was among the first African countries to ratify Conventions No. 88 and No. 181, with the latest integration into national labour laws carried out in 2019 through the Labour Proclamation, which strengthened PES and established new regulations for PrEAs. Additionally, the 2021 Overseas Employment Proclamation clarified the roles of these agencies and expanded worker protections.

As Ethiopia's economy grows, its labour market faces significant challenges, including high levels of unemployment, skill mismatches and gender disparities. The implementation of Conventions No. 88 and No. 181 has played a critical role in supporting labour market reforms to tackle these issues.

Key policies have focused on creating decent jobs, addressing skills gaps and supporting groups in vulnerable situations, such as women and migrants. To promote fair recruitment, the Government has developed digital tools through employment centres, providing services such as job matching, coaching and assessments. The ILO has contributed by supporting the creation of a code of conduct for PrEAs to facilitate the implementation of fair recruitment practices.

Despite these positive steps, challenges remain in fully implementing ALMPs and improving labour market regulation. Sustained efforts to address these gaps will be critical for Ethiopia to continue developing its labour market and achieving further economic growth.

Source: ILO, "How Conventions 88 and 181 Help Change the Labour Market Dynamics in Ethiopia: Case Study on the Ratification of Convention 181", 14 December 2023.

Data protection and privacy

In line with the requirements of Article 6(a) of Convention No. 181, PrEAs are required to process workers' personal data and respect workers' privacy in accordance with national law and practice. Furthermore, as outlined in Article 6(b), the processing of personal data should be limited to information related to the qualifications and professional experience of the workers concerned, along with other directly relevant details. For the purposes of these provisions, the processing of personal data includes the collection, storage, combination, communication or any other use of information related to an identified or identifiable worker (Article 1(3)).

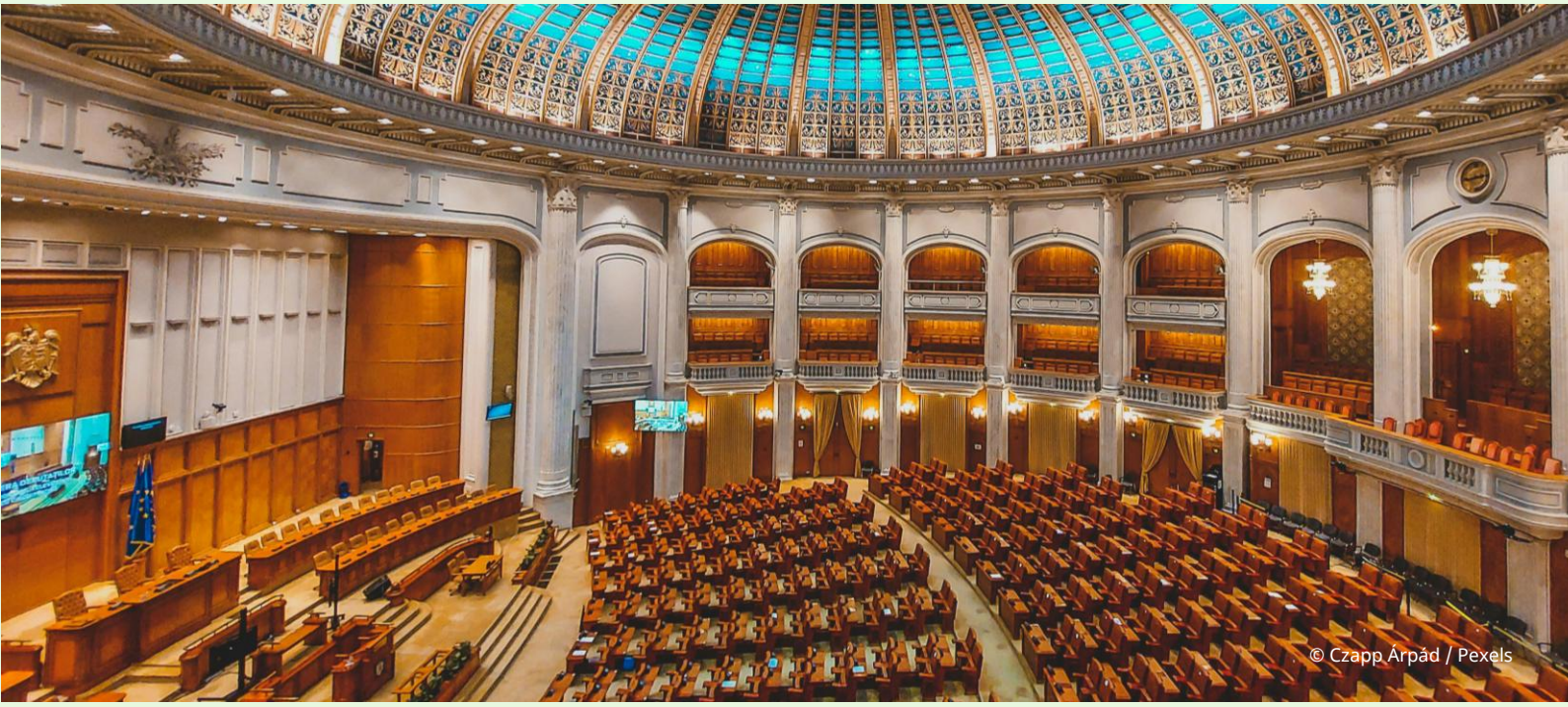
Under Article 13 of Convention No. 181, PrEAs must provide relevant information to the competent authority at intervals determined by that authority, while maintaining the confidentiality of the data submitted. This information allows the competent authority to monitor the structure and activities of PrEAs in accordance with national conditions and practices (Article 13(3)(a)) and for statistical purposes (Article 13(3)(b)). Additionally, Article 13(4) requires the competent authority to compile and regularly publish this information. PrEAs have a significant responsibility for ensuring that the processing of personal data complies with these requirements. These provisions provide clear requirements and parameters relating to the protection of personal data, as well as outlining the transparency responsibilities of agencies.

Further non-binding guidance is provided in Recommendation No. 188, which states that PrEAs should be prohibited from recording in files or registers personal data that is not required for judging the aptitude of applicants for jobs for which they are being or could be considered (Paragraph 11).

Paragraph 12(1) of Recommendation No. 188 further stipulates that PrEAs should store the personal data of a worker only for as long as is justified by the specific purposes for which the data was collected, or for as long as the worker wishes to remain on a list of potential job candidates. Paragraph 12(2) specifies that measures should be taken to ensure that workers have access to all their personal data processed by automated or electronic systems or kept in manual files. Under such measures, workers must have the right to obtain and examine a copy of any such data and the right to demand that incorrect or incomplete data be deleted or corrected. Paragraph 12(3) provides that, unless directly relevant to the requirements of a particular occupation and with the express permission of the worker concerned, PrEAs should not require, maintain or use information regarding the medical status of a worker, or use such information to determine the suitability of a worker for employment.

In contexts where national privacy regulations are absent or limited, international standards including ILO instruments such as Convention No. 181, Recommendation No. 188 and the ILO's *Protection of Workers' Personal Data: Code of Practice*[36] can provide further guidance. The ILO Code of Practice also contains wider guidance on the protection of workers' personal data. Although the ILO Code of Practice is not legally binding and does not replace national legislation, it can serve as a useful guide for developing policies and practical measures within enterprises.

In some cases, regional instruments on data protection and privacy also apply, such as the General Data Protection Regulation (GDPR) within the EU and the African Union's Malabo Convention (2014) (boxes 3.2 and 3.3).



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[36] ILO, *Protection of Workers' Personal Data: Code of Practice*, 1997.

▶ Box 3.2.
The General Data Protection Regulation (GDPR) in the EU

The GDPR is a comprehensive data protection law implemented by the EU on 25 May 2018.

Key features include:

- **Principles for processing personal data:** This includes requirements that processing must be lawful, fair and transparent, that data is accurate and limited to what is necessary for legitimate purposes, that storage is restricted in duration and that data is handled in a way that provides appropriate security (Article 5).
- **Consent**: Where processing is based on consent, the controller shall demonstrate that the data subject has consented to processing of his or her personal data (Article 7).
- **Rights of individuals (data subjects)**: This includes the right to access, correct, delete and transfer personal data (Articles 12–23).
- **Data protection by design and default**: Data controllers must implement data protection measures in the design of their processes and establish the highest level of data protection by default (Article 25).
- **Individual remedies**: Individual data subjects have a right to lodge a complaint with a supervisory authority in the Member State of his or her residence, place of work or place of the alleged infringement (Article 77).
- **Penalties**: Member States are required to establish administrative and other penalties for infringements of the regulation (Articles 83 and 84).

The GDPR contains specific rules relating to its territorial scope of application. It can apply to certain activities outside the EU in the circumstances described in Article 3. This includes, but is not limited to, the processing of personal data in the context of the activities of an establishment of a controller or a processor in the EU, regardless of whether the processing takes place in the EU or not (Article 3(1)).

Source: Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

▶ Box 3.3.
Regional and national data protection in Africa

The African Union's Malabo Convention (2014) aims to harmonize data protection and cybersecurity across member states. Key features relating to personal data protection include:

- **Principles governing the processing of personal data:** Establishes six principles relating to consent and legitimacy; lawfulness and fairness; purpose and relevance; accuracy; transparency; as well as confidentiality and security (article 13).
- **Specific principles for the processing of sensitive data:** Requires member states, subject to certain limitations, to prohibit the collection and processing of data revealing certain personal characteristics, including trade union membership (article 14(1)).
- **Rights of individuals:** Includes the right to information and access, as well as to object, correct, or delete personal data (articles 16-19).
- **Obligations of data controllers:** Requires data controllers (such as organizations) and processors to ensure confidentiality and security as well as hold data no longer than is necessary (articles 20- 22).
- **Duties of national protection authorities**: This includes for example, providing information on obligations, dealing with complaints, imposing sanctions, establishing cooperation mechanisms with other countries (article 12).

Across Africa, regional frameworks on data protection have also been developed, including:

- East African Community (EAC): The EAC Data Governance Policy Framework aims to harmonize Partner States' approach to data governance,[37] while a proposed Data Protection and Privacy Act is expected to provide a well-defined regulatory framework for safer and more efficient digital services.[38]
- ECOWAS (West Africa): The ECOWAS Supplementary Act on Personal Data Protection (2010) outlines principles for data processing and privacy protection.
- Southern African Development Community (SADC): While no region-wide law exists, countries like South Africa have robust data protection laws, such as the Protection of Personal Information Act 2013 (POPIA).

Additionally, countries such as Nigeria (Nigeria Data Protection Regulation 2019) and Kenya (Data Protection Act 2019) have enacted their own national laws, contributing to the growing data protection framework in Africa.

Source: African Union Convention on Cyber Security and Personal Data Protection, 2014 (Malabo Convention); EAC Data Protection and Privacy Act; ECOWAS Supplementary Act on Personal Data Protection 2010; South Africa Protection of Personal Information Act 2013; Nigeria Data Protection Regulation 2019; Kenya Data Protection Act 2019.

[37] East African Community (EAC), "EAC Set to Advance Data Governance and Protection with Development of a Regional Policy Framework," press release, 25 October 25 2024.

[38] East African Community (EAC), "EAC Launches Innovative Data Governance Training Programme for Judges," press release, 25 March 2025.

Legislative provisions in many jurisdictions regulate the responsibilities of PrEAs in managing personal data. For example, in Mexico, PrEAs are obliged to observe, without exception, the protection of personal data and guarantee of privacy notice in accordance with national law.[39] Panama's regulation similarly obliges PrEAs to properly classify documentation submitted by jobseekers and to maintain its strict confidentiality, using such information only for job search purposes.[40] Peru's *Regulatory rules for the operation of PrEAs* oblige PrEAs to only request information from jobseekers on professional qualifications, work experience and certain personal data. Personal data such as marital status, number of children, age and financial situation may not be requested or provided, unless reasonably required by the nature of the job vacancy. Additionally, the processing of this data is to be carried out under conditions that protect the personal privacy of jobseekers.[41] PrEAs in Cambodia, through the self-regulatory Code of Conduct,[42] are required to handle all personal data of migrant workers in strict confidentiality. This data, whether collected, received, used, transferred or stored, must not be shared with any third party without the prior informed consent of the migrant worker or their representative, except when mandated by law. Agencies are also prohibited from recording personal information, including photographs or images, unless it is directly necessary to assess the suitability of a worker for a job or to support their deployment. Any such data must be handled in compliance with legal requirements and in a manner that upholds principles of non-discrimination.

The World Employment Confederation's *Controller or Processor?* guidelines[43] are designed to assist PrEAs, human resource service providers and their clients in understanding and determining data processing roles under the GDPR. Aimed at legal, compliance and operational professionals within these organizations, the guidelines emphasize the importance of conducting a fact-based assessment of service relationships to determine whether the agency is acting as a data controller, processor or joint controller. They outline three typical data relationships, which include independent controllers, controller to processor and joint controllers. The guidance provides practical examples across key human resource services, such as temporary agency work, direct recruitment and managed service providers. The guidelines also highlight the importance of ensuring that contractual arrangements reflect actual data processing practices to maintain GDPR compliance.

Operations

For PrEAs to be established and permitted to operate, Member States may set specific requirements to support more effective regulation. Key considerations for PrEA operations could include requirements related to financial capacity and qualifications to operate, such as educational background and related experience, management capabilities and marketing strategies for better visibility in the labour market.

Building on the above, this section explores the conditions governing the operation of PrEAs, whether through licensing, certification or national legal frameworks. The focus is on what is required for PrEAs to obtain authorization to operate, based on practices identified in various regulatory frameworks. This includes financial requirements, such as registration fees and deposits, qualifications for staff and management and the types of information that must be submitted to the competent authority. In some cases, marketing practices may also be considered as part of these operational conditions.

Financial requirements

Regulatory frameworks often set financial requirements to verify that PrEAs are equipped to operate and fulfil their obligations, with agencies being required to demonstrate adequate financial resources to cover operational costs, including staff salaries, office infrastructure and reserves to provide for unforeseen contingencies (box 3.4). Financial stability not only helps PrEAs to operate in line with legal standards but also contributes to building trust among the employers and workers using their services.

[39] Regulation of Employment Agencies, article 11. Published in 2006 and amended in 2014 through Decree DOF: 05/21/2014.

[40] Executive Decree No. 32 of 2016, *Which regulates the operation of Private Placement Agencies*, article 4.

[41] *Regulatory rules for the operation of PrEAs*, article 8, approved via Supreme Decree No. 020-2012-TR.

[42] Association of Cambodian Recruitment Agencies and Manpower Association of Cambodia, *Code of Conduct for Cambodian Private Recruitment Agencies*, 2020.

[43] World Employment Confederation, *Controller or Processor? Guidelines on Data Processing Roles for HR Service Providers*, 2024.

In many countries, public authorities serve as the primary regulatory bodies responsible for assessing whether PrEAs meet regulatory standards and are eligible to receive authorization to operate. This process often includes the collection of associated fees, requiring agencies to pay a registration or licensing fee as part of the approval procedure.

According to the World Employment Confederation's Regulatory Survey of 2024,[44] among the 34 countries surveyed, 56 per cent require some form of financial commitment related to establishing an employment agency, mostly through financial warrants or guarantees. The costs associated with establishment and registration differ by jurisdiction, with the specific amounts influenced by local regulatory demands and prevailing exchange rates. This diversity in financial requirements underscores the role of robust financial standards in promoting accountability and resilience among PrEAs. These financial requirements are intended to guarantee that agencies are financially stable and capable of meeting their obligations to their clients.

▶ **Box 3.4.**
Strengthening financial and local ownership requirements (Indonesia)

Indonesia enforces regulations for legal and financial capabilities of PrEAs. Only Indonesian citizens are eligible to hold licences and corporations must ensure that most of their shares are held by locals. This requirement ties agencies to the local jurisdiction. Additionally, the financial requirements stipulate that agencies must have a minimum paid-up capital of 5 billion rupiah to demonstrate financial capacity to operate.

Source: ILO, *Achieving Fair and Ethical Recruitment: Improving Regulation and Enforcement in the ASEAN Region*, 2022, pp. 14–15.

Establishing a clear fee structure helps to eliminate ambiguities, reduce the potential for disputes and prevent irregularities in the PrEA establishment process. As outlined in Australia's Labour Hire Licensing Regulations 2018, in Victoria, registration fees for labour hire licences vary based on the agency's business tier classification. In the Philippines, the POEA issues licences to PrEAs, including those engaged in deployment of Filippino workers overseas. Licensing fees help to fund the administration of overseas employment programmes, which include facilitating legal recruitment, providing skills training and implementing worker protection policies. These programmes encompass government-to-government arrangements, placements through private recruitment agencies and special employment schemes designed to facilitate employment while protecting workers' rights.[45]

Beyond standard fees for the establishment of PrEAs, some countries require deposits or other financial guarantees as part of the registration process. In India, the Assam Private Placement Agencies for Recruitment Workers (Regulation) Act 2019 mandates that applications for the grant or renewal of a licence to operate an employment agency must be submitted along with a financial guarantee, such as a bank deposit.

Qualifications

To navigate the complexities of their role, including compliance with legal standards, addressing worker protections and responding to shifts in the labour market conditions, PrEAs require appropriate management capabilities. In recognition of this, several Member States establish specific work experience and educational criteria for PrEA officials as part of their regulatory frameworks.

[44] World Employment Confederation Survey 2024, unpublished.

[45] POEA, "About".

For example, the Republic of Korea's Enforcement Decree of the Employment Security Act 1994 (as amended) outlines eligibility criteria for PrEA executives, requiring them to meet defined professional standards (box 3.5).

▶ Box 3.5.
Rigorous qualifications for fee-charging job placement services (Republic of Korea)

In the Republic of Korea, specific qualifications govern the registration of fee-charging job placement services. Qualified executives may include certified job counsellors under the National Technical Qualifications Act 1997 (as amended), individuals with at least two years' experience in job consultation or vocational training, or certified labour affairs consultants under the Certified Public Labor Attorney Act 1984 (as amended). Additionally, those with experience in labour relations in organizations with over 300 full-time workers or as public officials for at least two years are also eligible.

Requiring these qualifications ensures that agencies are managed by skilled professionals with an understanding of the labour market, reinforcing quality and accountability.

Source: Enforcement Decree No. 18911, 2005 of the Employment Security Act, Republic of Korea.

These requirements vary between countries, reflecting local contexts. In some cases, these qualifications focus on education or formal training in labour market policies or recruitment management, to confirm that operators possess the technical expertise needed to navigate the complexities of labour markets. In Serbia, for example, operators must pass a professional exam to work in an agency, and an administrative fee is required for both taking or re-taking the exam and for issuing the certificate of successful completion.[46] Other countries may emphasize prior experience in the recruitment or another relevant industry as prerequisites. For instance, in the Philippines, any person applying for a licence to operate a recruitment agency must submit to the administration proof that the sole proprietor, managing partner, president or chief executive officer possesses either a bachelor's degree or at least four years' experience in human resource management or managing a manpower business.[47]

Certain jurisdictions also require demonstration of a clear understanding of local labour laws and international recruitment standards, in order to support alignment with regulatory frameworks and the protection of workers' rights. In Canada, the province of Manitoba restricts the eligibility of recruiters to individuals with relevant knowledge of the law. Applicants for a foreign worker recruitment licence are only considered if they are members in good standing of the Law Society of Manitoba, a bar of another province, the Chambre des notaries du Québec or the Immigration Consultants of Canada Regulatory Council (ICCRC).[48]

At the same time, qualification requirements for those operating PrEAs are another important aspect of regulation. The World Employment Confederation's Regulatory Survey of 2024[49] shows that, of the 34 countries surveyed, 63 per cent set standards for individuals governing employment agencies, such as requirements regarding personal conduct or professional competencies. However, it is important to strike a balance between setting professional standards and maintaining the sector's accessibility. If qualification requirements are too strict, they might create barriers for individuals with different experiences or innovative ideas who wish to enter the market. Approaches that combine entry standards with opportunities for ongoing training and capacity building can help to promote professionalism among those already working in the industry, while encouraging innovation. Balancing these elements is essential to support both fair recruitment practices and dynamic, responsive labour markets.

The use of effective marketing strategies can offer an important opportunity for PrEAs to expand their client base and reach more jobseekers and employers. While

[46] Law on Agency Employment ("Official Gazette of RS", No. 86/2019), article 3.

[47] POEA Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Filipino Workers 2002.

[48] Worker Recruitment and Protection Regulation 2009.

[49] World Employment Confederation Survey 2024, unpublished.

many Member States do not include marketing requirements for the registration and licensing of PrEAs, the ability to use such strategies is especially important for agencies placing migrant workers, as it can help to distinguish them from unfair or exploitative actors. In Member States where marketing requirements are part of the licensing process, it is essential to provide clear guidance on the development and implementation of responsible marketing strategies. Authorities may also consider monitoring of PrEA marketing activities, such as reviewing advertisements, social media campaigns and other promotional materials, to support compliance with regulations.

Reporting obligations

Member States can require PrEAs to submit regular reports to designated national authorities, detailing their activities such as recruitment practices, job placements and workforce trends (boxes 3.6 and 3.7). These reports enable authorities to monitor the operations and structure of PrEAs, assess compliance with regulatory standards and gain insights into broader labour market dynamics. The frequency of reporting is typically set by national regulations and can vary from monthly to annual submissions, depending on the country's legal and administrative framework.

▶ **Box 3.6.**
Regulatory oversight through quarterly reporting (Singapore)

In Singapore, the Ministry of Manpower requires PrEAs to submit regular reports as part of its monitoring framework. Each quarter, agencies must provide data on job applicants that they have referred for roles lasting at least six months and offering a minimum monthly salary of 3,000 Singapore dollars. These reports include details such as the employer's Unique Entity Number, the foreign applicants' National Registration Identification Card numbers and job-specific information like the job title and referral date.

This reporting mechanism supports oversight by enabling authorities to track recruitment patterns and identify potential irregularities in agency practices.

Source: ILO, *Achieving Fair and Ethical Recruitment: Improving Regulation and Enforcement in the ASEAN Region*, 2022, p. 35.

▶ **Box 3.7.**
Reporting to Congress on the Philippines' accountability for PrEAs

In the Philippines, the Bureau of Local Employment enhances transparency and oversight of PrEAs by providing updates to both houses of Congress as part of the annual budget hearings. These updates, compiled from reports by the Department of Labor and Employment's regional offices, cover data on the activities and status of PrEAs nationwide. The Bureau's report includes information, such as the total number of licences issued to PrEAs, authorities granted for recruitment and authorities to open new branches. This data also highlights the number of job seeking candidates recruited and successfully placed in various positions by different agencies.

By regularly sharing these updates, the Bureau provides Congress with an overview of PrEA operations and their contributions to support informed decision-making regarding policies and budgets related to employment services.

Source: Department of Labor and Employment, Republic of the Philippines.

Oversight mechanisms

Effective oversight plays an important role in contributing to the protection of workers while also supporting PrEAs by promoting legal clarity and strengthening trust among service users. When monitoring mechanisms are clearly defined and applied consistently, they can help to identify and discourage illegal or unfair practices. This section of the guide presents a perspective on oversight that emphasizes the importance of establishing appropriate monitoring

and enforcement processes, including mechanisms to address complaints and promote accountability.

Monitoring

For Member States that have ratified ILO Convention No. 181, it is important to emphasize that the primary obligations lie with the State itself, not with private entities. While the Convention provides standards for the operation of PrEAs, ratifying countries are expected to take appropriate legislative, regulatory and administrative steps to support alignment. These responsibilities may include, but are not limited to, monitoring, supervision and enforcement. In this context, Convention No. 181 highlights the role of public oversight within broader efforts to support decent work and effective labour market governance.

Oversight can be implemented through frameworks established by governments, industry associations or other regulatory bodies. These frameworks focus on accountability and regulatory compliance, outlining how PrEAs operate within established labour market regulations. To support compliance, monitoring systems should incorporate various measures to assess PrEA activities consistently. These may include regular audits, licensing reviews and inspections. Regular audits can enhance transparency and enable regulators to assess adherence to legal requirements and identify areas for improvement. Inspections and monitoring can complement oversight systems by offering a broader view of agency practices and identifying potential risks or violations.

A structured and transparent approach to monitoring can help to address concerns related to worker protection and fair recruitment while supporting the alignment of PrEA operations with their regulations. In this regard, a worker-led monitoring tool may support such efforts, as is the case of the International Trade Union Confederation's (ITUC) Recruitment Advisor,[50] which offers a platform for workers to review PrEAs anonymously. Monitoring efforts are reinforced by mechanisms to address non-compliance and enhance accountability. By linking monitoring with corrective actions, such recruitment practices can be brought into conformity with regulatory standards.

Governments and regulatory bodies may establish oversight mechanisms that assess not only the operations of PrEAs, but also their impact on employment trends and workforce dynamics. Dedicated regulatory bodies play a critical role in promoting transparency in recruitment processes and enhancing protections for workers' rights, aligning PrEA operations with regulatory expectations, and ensuring that PrEAs which comply with regulations are not unduly disadvantaged. Article 14(2) of ILO Convention No. 181 specifically mandates that supervision of the Convention's implementation shall be carried out by the labour inspection service or other competent public authorities. To fulfil this mandate effectively, it is important for governments to invest in strengthening the capacity, staffing and authority of labour inspectorates responsible for overseeing PrEAs. The ILO's Guidelines on General Principles of Labour Inspection outlines the scope and functions of labour inspectors, including employment-related functions such as reviewing recruitment practices and verifying compliance with applicable labour laws.[51] Strengthening the role of labour inspectors is essential for reinforcing legal compliance among PrEAs, protecting workers' rights and contributing to a fair and transparent labour market.

Complaint mechanisms

A well-designed complaint mechanism can contribute to increasing transparency and accountability in the operations of PrEAs, providing a structured process through which workers and other stakeholders can raise concerns about illegal or unfair practices (box 3.8). Under Article 10 of ILO Convention No. 181, the establishment of effective complaint mechanisms is a requirement for ratifying Member States. To foster trust in the process, complaint procedures should prioritize accessibility, transparency, fairness and responsiveness. Confidentiality and the protection of workers from retaliation, including actions such as deportation or an embargo on their freedom to migrate for future job opportunities, are essential for encouraging individuals to come forward without fear. When designing accessible complaint mechanisms, it is important to consider the migration aspect, so that workers can seek redress without jeopardizing their future employment prospects. Additionally, where appropriate, involving the most representative employers' and workers' organizations in the design and operation of these mechanisms can help to

[50] Recruitment Advisor, "Home".

[51] ILO, *Guidelines on General Principles of Labour Inspection*, 2022 , paras 1.3.1 and 1.3.2.

maintain a sustainable process that works in the interests of all stakeholders.

▶ Box 3.8.
Complaint mechanisms in Honduras

Honduras' regulation governing the operation of PrEAs and related services establishes administrative procedures for handling complaints. Specifically, article 50 of the regulation allows citizens or employers who have experienced abuse to report any act or omission that violates their rights to the Department of Regulation of PrEAs under the General Directorate of Employment.

Additionally, any citizen defending a legitimate interest, or an employer who believes they have been subjected to abuse by a PrEA or any related service, may file a complaint with the Department of Regulation of PrEAs. The complaint can address any act or omission that constitutes a violation of rights. Furthermore, no administrative authority may reject complaints or requests submitted by individuals.

Source: Reglamento para el Funcionamiento de las Agencias de Empleo Privadas y Servicios Conexos (Regulations for the Operation of Private Employment Agencies and Related Services), issued via Agreement No. STSS-141-2015 and Agreement No. STSS-155-2017.

A transparent complaint mechanism is a fundamental component of an effective and impactful regulatory framework (boxes 3.9 and 3.10). Complainants should receive clear and consistent updates on the status of their cases, the steps involved and the final outcomes. Well-defined procedures and timeframes help to make the process more accessible and predictable, fostering confidence in the system. Timely resolution of grievances is equally important, as delays can exacerbate harm and allow issues to escalate. Complaints should be addressed in an efficient and fair manner, with clear timelines for each stage of the process. A prompt response strengthens the credibility of the complaint system and facilitates corrective actions without unnecessary delays.

▶ Box 3.9.
Complaint mechanisms in employment regulations in Fiji

Fiji ratified ILO Convention No. 181 on PrEAs in 2013. In line with this, the Employment Relations (Employment Agencies) Regulations 2008 provide a formal mechanism for addressing concerns related to the practices of PrEAs. Under part 4 of the Regulations, workers, former workers and other individuals may lodge a complaint for alleged breaches of any provision of these regulations with the Permanent Secretary for the Ministry responsible for the administration of the Employment Relations Act 2007. Upon receiving a complaint, the Permanent Secretary is responsible for investigating it and ensuring compliance, exercising the relevant powers under these regulations and the Act. If a complaint cannot be settled during this initial stage, it may be referred to the Mediation Services, the Employment Relations Tribunal or the Employment Relations Court.

Source: Employment Relations (Employment Agencies) Regulations 2008.

Gaining access to complaint mechanisms and justice can be particularly challenging for workers in vulnerable situations. For migrant workers, their residence and work permits are directly tied to their employment, making them particularly vulnerable to retaliation if they choose to file a complaint. They may also face significant accessibility barriers, such as language differences, cultural unfamiliarity and limited knowledge of local legal systems, all of which can hinder or even prevent effective use of such processes. These challenges have been extensively documented in the ILO report *Fair Recruitment and Access to Justice for Migrant Workers*, which provides recommendations aimed at improving migrant workers' access to legal remedies without fear of retaliation or deportation. The report also highlights the need for tailored support to address the specific requirements applicable to

different migration contexts.[52] These barriers are often most pronounced in cross-border settings, where workers may hesitate to report violations due to fear of losing their employment or being removed from the host country.

Some promising practices have emerged to help address these challenges. For example, the NGO Justice Without Borders [53] has developed practitioner's manuals for lawyers and service providers to improve their understanding of common legal issues faced by migrant workers. They have also created a screening tool to assist migrant workers in making informed decisions about lodging complaints. This work primarily focuses on supporting migrant workers from Indonesia and the Philippines in navigating the legal process while pursuing claims in Hong Kong (China) and Singapore.

▶ Box 3.10.
Key features of complaint processes

- *Accessibility*: The procedure should be readily available to all workers, regardless of their background or location.
- *Fairness*: The process should guarantee impartial handling of complaints and prevent bias.
- *Confidentiality and protection*: Safeguards must be in place to protect complainants from retaliation.
- *Transparency:* Complainants should receive clear updates on case status, process steps and outcomes.
- *Structured and predictable process*: Well-defined procedures and timelines should guide the complaint resolution process.
- *Timely resolution*: Complaints must be handled efficiently to prevent further harm or escalation.
- *Regular reporting and oversight*: Insights from complaints should be documented to improve accountability and identify trends.
- *Encouragement of fair practices*: The process should reinforce fair standards and compliance with regulations.
- *Migrant considerations*: The procedure should ensure that migrants, regardless of their legal status, can lodge complaints safely, without the risk of being reported to immigration authorities or other consequences related to their migration status.
- *Gender considerations*: The process should be designed to address the specific needs of female workers, including protection from gender-based violence, harassment and exploitation while maintaining confidentiality and safety.
- *Language capacity and literacy*: Mechanisms should provide multi-language support, translation services and clear, easy-to-understand information to ensure that workers, regardless of their language or literacy skills, can effectively engage with the process.
- *Sector-specific considerations*: Mechanisms should be adaptable to the needs of different sectors and ensure that all workers, regardless of the industry in which they are employed, have equal access to fair and transparent complaint mechanisms.

Source: Authors.

[52] ILO, *Fair Recruitment and Access to Justice for Migrant Workers*, 2022.

[53] Justice Without Borders, "Home".

Self-regulation and compliance incentives

Self-regulation through mechanisms such as codes of conduct can be a valuable complement to formal regulatory frameworks (box 3.11) or can fill gaps where such frameworks are limited or absent. Unlike the regulatory frameworks discussed in previous sections, such as legal frameworks, self-regulation refers to voluntary mechanisms that operate independently. When applied effectively, self-regulation helps to uphold fair standards, protect workers, build trust, reduce reliance on government intervention and promote a more transparent and accountable recruitment industry. This approach can also enhance the credibility of PrEAs and support a fairer and more effective labour market.

A notable example of such a framework is the global Code of Conduct[54] developed by the World Employment Confederation, which applies to the PrEAs represented by the Confederation. The Code of Conduct outlines principles relating to adherence to laws, professional conduct, transparency in terms of engagement, health and safety at work, non-discrimination, workers' rights, confidentiality and access to remedies. It also establishes quality standards for the industry and is regarded as a reference point for good practice. To support the implementation of these principles, the World Employment Confederation has introduced a quality and compliance mechanism. These initiatives highlight the role that codes of conduct can play in encouraging adherence to regulations and enhancing transparency and accountability within PrEAs. However, it is important that these codes of conduct do not merely create an illusion of fair recruitment but serve as a foundational reference for industry standards. To avoid the risk of symbolic or ineffective frameworks, codes of conduct should be both enforceable and subject to independent monitoring to provide real protection.

At the national level, Viet Nam has taken proactive steps to promote fair recruitment through the Code of Conduct developed by the Viet Nam Association of Manpower Supply. This voluntary code aims to protect the rights of migrant workers and support sustainable recruitment practices. It serves as a voluntary standard for recruitment agencies that place workers abroad. Originally issued in 2010, the Code was revised and re-endorsed in 2018 to align more closely with international labour standards and contemporary priorities, including gender considerations and the Sustainable Development Goals, particularly Goal 8 (decent work and economic growth) and Goal 10 (reduced inequalities).[55]

Some countries use incentives-based approaches to encourage PrEAs to improve their performance. These incentives can take various forms, such as financial rewards, performance-based contracts or regulatory benefits, with the aim of promoting fairness, efficiency and effectiveness. By linking rewards to measurable outcomes, such as successful job placements, retention rates or inclusion of disadvantaged jobseekers, governments can foster a competitive environment that motivates PrEAs to enhance their services.

In the Republic of Korea, since 2024, the certification criteria have been revised to select agencies with exceptional capabilities, rather than those that merely fulfil the minimum requirements. Eligible agencies must have been registered for at least three years without significant legal violations during that period. The selection process involves a document review, on-site inspections and evaluations in four key areas: operational compliance, such as legal compliance and data protection; job placement processes; resource management; and performance metrics, such as customer satisfaction and employment outcomes. Certified agencies gain a three-year certification mark, access to training resources, preferential bank interest rates and exemption from inspections for one year.[56]

Offering tangible benefits to high-performing providers can strengthen incentives for compliance and continuous improvement. The International Organisation of Employers' (IOE) *Employer's Guide to Fair Recruitment* [57] highlights the importance of integrating fair recruitment practices into these incentive systems, helping to align performance improvements with both business goals and the protection of workers' rights.

[54] World Employment Confederation, "Code of Conduct".

[55] Viet Nam Association of Manpower Supply, *Code of Conduct Applied to Vietnamese Agencies Sending Workers for Overseas Employment*, 2018.

[56] Republic of Korea, Ministry of Employment and Labor, "Press release", [April 24, 2024].

[57] International Organisation of Employers, *An Employer's Guide to Fair Recruitment*, 2021.

▶ Box 3.11. Checklist for a legislative framework and oversight

Oversight and authority

- *Defined scope of authority*: Clearly outline the responsibilities of regulatory bodies.
- *Enforcement mechanisms*: Establish penalties for non-compliance, including fines or licence revocation.
- *Designated enforcement officials*: Assign specific agencies or officials to oversee regulations.
- *Resource allocation*: Ensure that responsible authorities have adequate funding and staffing.
- *Training and capacity building*: Ensure that responsible staff receive adequate training, including a particular focus on complex or sensitive sectors.
- *National and international standards*: Align regulations with global labour standards.

Monitoring and compliance

- *Regular audits:* Conduct periodic reviews to ensure compliance.
- *Unscheduled inspections*: Implement unannounced inspections to deter illegal practices.
- *Mandatory reporting*: Require agencies to submit activity reports to regulatory bodies.
- *Digital tracking systems*: Use technology for real-time monitoring of PrEA activities.
- *Collaboration with social partners*: Engage employers' and workers' representatives, which can provide independent oversight, including for labour market trends, reducing the risk of regulatory blind spots.

Licensing and registration requirements

- *Financial viability:* Stipulate that PrEAs should be able to show that they have sufficient resources to operate in compliance with applicable laws and regulations.
- *Management capabilities*: Establish requirements for qualified leadership with relevant industry knowledge.
- *Marketing strategies*: Encourage fair marketing, particularly for migrant worker placements.
- *Record-keeping*: Mandate agencies to maintain and provide records of placed workers.

Complaint and grievance mechanisms — See box 3.10 in the section on Complaint processes.

Enforcement and corrective actions

- *Warnings and compliance guidance:* Administer corrective measures for minor infractions.
- *Penalties for violations*: Implement fines, licence revocation or legal actions for major breaches.
- *Transparent enforcement processes*: Clearly communicate consequences of non-compliance to PrEAs and stakeholders.

Policy alignment and labour market integration

- *Transparency measures*: Make key agency data accessible to regulators and stakeholders.
- *Labour market information systems (LMIS)*: Use data to assess the impact of PrEAs on employment.
- *Harmonization with national employment policies*: Align policies with broader labour and migration strategies, which could include bilateral labour agreements and memoranda of understanding (MoU) between the countries involved.
- *Fair recruitment practices*: Promote decent work and prevent exploitation for all workers, with particular attention to migrant workers.
- *Alignment with international standards*: Ensure that regulations reflect global standards and improve access to best practices.

Source: Authors.

▶ 4. Relationship between PrEAs and PES

The principle is firmly embedded in international labour standards, notably in Convention No. 88 and Convention No. 181, that PES retain the leading role and final authority in the formulation and implementation of national employment policies, including the utilization and oversight of public funds allocated for this purpose. While discussions often focus on whether employment services should be publicly managed or outsourced to private providers, it is essential to recognize that these services have traditionally been delivered through a combination of both public and private entities. As the world of work becomes increasingly digital and demographic shifts place added pressure on labour markets, PES are expanding their service delivery models. They are focusing not only on placing unemployed individuals into jobs but also on supporting jobseekers' employability and long-term career development. Efforts are being made to build a more integrated and collaborative ecosystem of services.[58]

In the context of PES, "partnership working" refers to the diverse ways in which the PES collaborate with a wide range of organizations and agencies to achieve strategic and operational objectives related to employment.

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The promotion of partnerships between PES and PrEAs is clearly enshrined in international labour standards. Article 1(2) of Convention No. 88 states "The essential duty of the employment service shall be to ensure, in co-operation where necessary with other public and private bodies concerned, the best possible organisation of the employment market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of productive resources". This statement is viewed as a critical element of national efforts to achieve and sustain full employment while maximizing the potential of labour market facilitation and intermediation. In addition, Article 11 calls on national authorities to adopt measures that promote effective cooperation between PES and non-profit PrEAs, reinforcing the importance of coordinated efforts in employment service delivery.

Convention No. 181 builds on this principle, with Article 13(1) prescribing that "A Member shall, in accordance with national law and practice and after consulting the most representative organizations of employers and workers, formulate, establish and periodically review conditions to promote cooperation between the public employment service and private employment agencies". Mirroring Article 1(2) of Convention No. 88, Article 13(2) of Convention No. 181 reaffirms that public authorities retain the final responsibility for formulating labour market policies and managing the use of public funds for their implementation. In addition, Article 13(3) requires that PrEAs provide the competent authority with information on their structure and activities at intervals to be determined by the authority. This information can support the authority in its mandate to formulate and implement labour market policies.[59]

Supplementing the principle in the previously mentioned Conventions, Recommendation No. 188 provides more detailed guidelines on its application. For instance, Paragraph 16 of the Recommendation suggests that bodies may be established to promote an improved collaboration between PES and PrEAs, and that these may include representatives of the PES, the PrEAs and the most representative organizations of employers and workers. Moreover, Paragraph 17 of the Recommendation proposes measures for promoting this cooperation, such as pooling information, adopting common terminology to improve transparency, exchanging information on vacancies, launching joint

[58] ILO, *Global Report Part I: Public Employment Services and Active Labour Market Policies for Transitions: Responses to Mega Trends and Crises*, 2023.

[59] As noted by the Committee of Experts in its 2010 General Survey, para. 235.

projects, concluding agreements for specific activities (such as projects for the integration of the long-term unemployed), training of staff and conducting regular consultations to improve professional practices.

In line with this principle of collaboration between PES and PrEAs, national PrEA regulation may include specific provisions on the parameters for efficient cooperation. How detailed these provisions may be can vary from country to country. For example, Suriname's Private Employment Agencies Act explicitly allows the competent authority to formulate conditions for cooperation between the PES and labour intermediaries.[60] However, the rules for implementing this provision are to be established via State decree.

Uruguay, on the other hand, sets out potential measures to promote cooperation in its PrEA regulation.[61] Through Decree No. 137/016, Uruguay updated its regulatory framework for PrEAs, granting the Ministry of Labour and Social Security, through its National Employment Department, the authority to promote collaboration between PES and PrEAs. This collaboration aims to promote decent work, enhance labour market transparency through shared information and standardized terminology, support joint vocational training initiatives and facilitate job placement by exchanging vacancy information and establishing public–private agreements to assist disadvantaged jobseekers. Additionally, Uruguay's regulation encourages reciprocal consultations to improve professional practices, the development of socio-economic plans to boost employment and cooperation in managing PES intermediation services, with PrEAs required to report on outcomes.

Similarly, under Article 46 of its regulation for the operation of PrEAs and related services,[62] Honduras authorizes its Department of Regulation of PrEAs to implement measures aimed at enhancing cooperation between PrEAs and PES. These collaborative measures are outlined in the regulation and include information-sharing, the use of common terminology, joint projects and staff training initiatives, among others. Panama also promotes a proactive collaboration between public and private actors, with PrEAs and the National Employment Service, under the Ministry of Labour and Workforce Development (Ministerio de Trabajo y Desarrollo Laboral (MITRADEL), in Spanish), working together on anti-trafficking trainings, the publication of job offers on the National Employment Portal and the joint organization of job fairs.[63]

The shift towards increased collaboration between public and private employment services is exemplified in France,[64] which moved from a public monopoly on job placement to a model of cooperation and complementarity between the PES and private actors. PrEAs emerged in France in the 1930s and, driven by labour shortages and the need for more flexibility in recruitment processes, expanded significantly during the 1970s and 1980s. By 2005, PrEAs were recognized as key contributors in labour market intermediation. Over time, cooperation between public and private employment services in France has increased, as reflected in the ratification of Convention No. 181 in 2015. Additionally, in 2021, a national framework agreement was established between Prism'emploi (representing the PrEAs) and the PES to enhance jobseekers' access to employment and address skills shortages. At the local level, this partnership is reflected in frequent collaboration between the PES offices and PrEAs.

In the absence of structured cooperation and clearly defined roles, there is a risk of fragmented service provision, inefficient use of public resources and conflicting messaging to jobseekers and employers. Poor coordination can also result in overlaps or gaps in service coverage, ultimately undermining the effectiveness of employment policies and eroding trust in labour market institutions. In this context, fostering transparent partnerships under the strategic leadership of the PES can contribute to more coherent and effective labour market outcomes.

Contemporary forms of collaboration between the PES and PrEAs vary between countries. Joint initiatives may involve integrated job matching platforms that allow

[60] Private Employment Agencies Act – Act on the Provision of Labor by Intermediaries 2017, article 16.

[61] Government of Uruguay, Decree No. 137/016 – Regulation of the Operation of Private Employment Agencies and Repeal of Decree No. 384/979.

[62] Regulation for the Operation of Private Employment Agencies and Related Services, issued via Agreement No. STSS-141-2015 and Agreement No. STSS-155-2017.

[63] ILO, "Panama's Private Employment Agencies: An Indispensable Partner for Creating Decent Employment for National and Migrant Workers – Case Study on the Ratification of Convention 181: Panama", 5 September 2023.

[64] ILO, "France: Human-centred Public–Private Cooperation for Strengthening Employment Services – Case Study on the Ratification of Conventions 88 and 181: France", 14 April 2023.

both parties to share information on vacancies and expand opportunities for jobseekers. Coordination mechanisms can also support referral systems, enabling individuals registered with one provider to access complementary services from another. Such collaboration is typically supported by regular communication, shared performance indicators and aligned quality standards for coherence in service delivery and the protection of labour rights. These include formal agreements or MoU that outline roles, responsibilities and shared objectives.

Over time, many of these partnerships have developed into more structured arrangements (box 4.1). What may begin as temporary or informal cooperation, often established in response to specific challenges such as widespread layoffs or public health emergencies, can gradually transform into formal committees or multi-level frameworks with clearly defined decision-making and operational roles. Written agreements, such as the MoU described in the previous paragraph, are often used to support and formalize these collaborations. These agreements typically outline the scope of the partnership, clarify the responsibilities of each party and establish shared goals that may include enhancing job matching, coordinating services and implementing targeted employment interventions.

▶ **Box 4.1.**
Collaboration between PES and PrEAs: Insights from the World Employment Confederation's "The Work We Want" survey

A survey titled "The Work We Want", conducted by the World Employment Confederation in association with FT Longitude in November and December 2023, gathered insights from 715 senior executives worldwide, including 680 from Forbes Global 2000 companies and 35 from public sector organizations.

The survey revealed that, in 48 per cent of the responding countries, there is a formal agreement between public and private employment services. Furthermore, in 44 per cent of the countries, public and private employment services exchange information on job vacancies, and in 41 per cent of the countries consultations are held to improve professional practices.

The most common services outsourced from public to private employment services include job search assistance, career guidance, job matching and training or upskilling, outsourced in 75 per cent of the countries that responded positively to this question.

Source: World Employment Confederation, "World of Work – The Work We Want".

Partnerships in employment services

Agile or flexible partnerships are typically informal and aim to provide quick solutions to immediate labour market challenges, such as addressing skill shortages in specific sectors. These partnerships are often structured as pilot projects, designed to test the effectiveness of new services or interventions. The use of these agile or flexible partnerships allows for adaptability and quick decision-making, making them particularly useful in dynamic or rapidly changing labour market conditions.

For example, a Dutch staffing company partnered with local government to develop a training programme that included individuals with temporary asylum permits.[65] The agency identified various client companies that were willing to hire workers who required job training. Adopting a holistic approach, they went beyond linking workers to employment opportunities by providing comprehensive support for foreign workers, including Dutch language courses and assistance with integration into Dutch society.

In contrast, **commercial service partnerships** are more formalized and usually involve public procurement processes. These partnerships are typically used for larger-scale projects, where defined performance metrics, such as job placement rates and retention outcomes, are established. The focus is on

[65] World Employment Confederation, "Worker Story: Setting Foot in a New Sector", 30 September 2021.

efficiency, cost-effectiveness and achieving targeted outcomes.

One example of such commercial services is that the Swedish PES has transitioned towards subcontracting services to PrEAs for entire groups of jobseekers.[66] Upon registration, jobseekers are assessed using an AI-based profiling tool, which categorizes them into five groups based on their proximity to the labour market. Those closest to employment primarily receive online services, while those further from the market continue to receive support from the PES. The middle three groups are referred to PrEAs for service delivery, with the PES acting as a facilitator and evaluator. Jobseekers have the freedom to choose their subcontractor for a 12-month referral period, after which they can rate and change subcontractors. The subcontracting process is regulated with payment structures comprising a per-day rate, a result-based rate and a speed premium. The Procurement Department at the PES establishes criteria for subcontractors, while another department monitors the performance and compliance of PrEAs through regular reviews and communication forums. These forums include participation from social partners, such as representatives from employers' and workers' organizations. To address regional gaps in subcontractor availability, particularly in remote areas, the PES promotes digital services and encourages the participation of more PrEAs.

Lastly, **co-construction or co-creation partnerships** represent a newer model where partners collaborate equally in the design, implementation and evaluation of services (table 4.1). This model emphasizes equal collaboration and is particularly suited to contexts where innovation and human-centred design are critical. While less widespread in PES systems, this model is gaining traction as a promising way to achieve the best possible labour market outcomes. Examples below from Australia, Colombia and Germany highlight the role of trust and collaboration in creating effective services that align with the shared goals of all stakeholders.

[66] Swedish Parliament, Förordning (2022:812) om förmedlingsinsatser (Regulation 2022:812 on Mediation Efforts).

▶ Table 4.1. Co-construction or co-creation partnerships

Country	Co-construction partnership model	Key features
Australia[67]	Integrated public-private employment services	• Delivers employment services through private providers to support all jobseekers, with specialized assistance for groups in vulnerable situations available both online and on site. • Connects job-ready candidates with opportunities via a digital platform while collaborating with PrEAs to facilitate employment. • Provides a shared framework for public and private employment services.
Colombia	Collaborative employment service network	• Integrates public and private providers within a national employment network. Focuses on expanding coverage, local labour market adaptation and targeted support (for instance, for women, youth and persons with disabilities). • Encourages specialization and cooperation rather than competition. • Regulated through licensing, service standards and monitoring for quality assurance.
Germany[68]	Regulated quality assurance system	• The Federal Employment Agency, expert bodies and accreditation agencies cooperate in a "spirit of trust". • AZAV certification is awarded for quality placement services and financial support. • Focus on reducing unemployment and strengthening the labour market through structured collaboration.

Source: Authors.

Countries with well-established partnership models have often been better equipped to manage labour market disruptions caused by crises. [69] Evidence suggests that PES with deep-rooted partnerships can pool resources and expertise more effectively, enhancing their responsiveness and capacity to mitigate labour market shocks. In times of crisis, such as those caused by natural disasters or geopolitical tensions, PES can leverage these partnerships to address urgent labour market challenges, including providing support to populations in vulnerable situations and facilitating rapid job placement. The role of PrEAs in these situations has also been recognized as crucial. As outlined in the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), in Paragraphs 23(f) and 33(d), the regulation and collaboration of PrEAs are critical elements in upholding fair labour practices and access to decent work, particularly during crises. PrEAs can work alongside PES to expand job matching, enhance skills development and provide tailored employment services. This collaboration is seen as especially vital when integrating displaced workers, refugees and returnees into the labour market, as well as addressing the specific needs of other persons in vulnerable situations, such as women and youth.

[67] World Association of Public Employment Services (WAPES), "Exploring ILO Conventions 88 and 181 – WAPES", 28 November 2024.

[68] Ordinance on the requirements and procedure for the accreditation of specialized bodies and the approval of employment promotion providers and measures in accordance with the Third Book of the Social Security Code (Accreditation and Approval Ordinance for Employment Promotion – AZAV), 2012, § 5.

[69] ILO, *Global Report Part I: Public Employment Services and Active Labour Market Policies for Transitions: Responses to Mega Trends and Crises*, 2023.

In situations where a fully formalized partnership is not feasible, PES and PrEAs can still have room to cooperate through more informal or partial arrangements. Even without a comprehensive framework, PES and PrEAs can share information and adopt common terminology to improve labour market functionality. In addition, collaborative partnerships can enhance outreach and deliver services that may otherwise be inaccessible. However, cooperation can be hindered when the legal and financial foundations of the partnership are unclear, or when there is a lack of transparency in the management of data and success metrics. These risks should be recognized and addressed proactively.

In Australia, when fully formalized partnerships between PES and PrEAs were not feasible, informal cooperation and framework agreements were used to support favourable labour market outcomes. To mitigate risks such as unclear legal and financial aspects, Australia established guidelines for performance management, ensuring transparency in funding and success metrics. A centralized data-sharing platform was created to improve transparency and enable real-time tracking of job placements and programme results. The responsible authority for the guidelines and platform was the Department of Employment, Skills, Small and Family Business (now part of the Department of Employment and Workplace Relations) and it oversaw the regulation and coordination. Additionally, joint committees reviewed data and feedback, ensuring accountability. For populations in vulnerable situations, such as Indigenous Australians, refugees or long-term unemployed individuals, Australia's partnerships also involved collaborative outreach efforts that combined public services with the flexibility and responsiveness of private agencies, improving overall access and impact.[70]

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[70] Australian Government, "Workforce Australia".

During the COVID-19 pandemic, Germany's labour market response included an expanded use of *Kurzarbeit* (short-time work in German). Social partners played a role in both shaping emergency measures and ensuring fair implementation at the company level. The introduction of *Kurzarbeit* required formal agreements at the workplace, either through works councils or direct worker consent, underscoring the embedded role of co-determination in German labour relations.[71] In Germany, social partners were actively consulted by the Federal Government and participated in the governance of the Federal Employment Agency, contributing to decisions on benefit duration, eligibility and policy flexibility.[72] PrEAs played a more limited but supportive role, focusing primarily on outplacement services and labour market reintegration. In situations where workforce reductions exceeded the scope of *Kurzarbeit*, transfer companies, often coordinating with private actors, provided targeted support for displaced workers. While temporary agency workers were initially excluded from *Kurzarbeit*, emergency legislation during the pandemic temporarily extended access to these workers, reflecting evolving labour market realities.[73] With the support of formal cooperation mechanisms and adaptive legislation, *Kurzarbeit* measures contributed to maintaining employment, facilitating economic recovery and offering protection for groups in vulnerable situations during crisis periods.

Beyond traditional service providers, new strategic partners have emerged. These include health providers and social protection systems, which are increasingly integral to the labour market services ecosystem. This expansion reflects a move towards more holistic employment services that recognize the complex and interconnected barriers to employment, such as health issues or social exclusion. Over time, these partnerships have been recognized for responding quickly to labour market fluctuations as well as addressing long-term labour market trends, including digital transformation and evolving demands for certain skills.

Partnering in support of groups in vulnerable situations

Partnerships between PES and PrEAs can play a crucial role in supporting persons in vulnerable situations. These collaborations can encompass a wide range of activities, from training programmes and job matching services to more direct support for populations in vulnerable or marginalized situations, such as migrant workers, refugees and persons with disabilities. By leveraging the expertise and networks of both public and private actors, these partnerships enhance labour market access for those facing significant and multiple barriers, fostering greater inclusion and economic participation of the most inactive.

Several European countries provide examples of joint support initiatives for groups that tend to be at higher risk of socio-economic exclusion and that face specific barriers to accessing employment. In the Netherlands, PrEAs are subcontracted to deliver employment services in collaboration with PES.[74] Labour market participation programmes, along with municipal-level initiatives for groups in vulnerable situations, are structured within the national employment platform, werk.nl. Additional support programmes at the municipal level target jobseekers who are further from the labour market. A key aspect of the Dutch system is the exchange of information between PES and PrEAs, aimed at improving job matching and optimizing labour market participation. The primary target groups for these efforts include individuals with disabilities, people receiving sickness benefits and jobseekers who face significant barriers to employment.

France promotes workforce integration through Temporary Integration Work Companies (Entreprises de travail temporaire d'insertion (ETTIs), in French), which operate under a social enterprise model with specific compliance requirements.[75] Many of these organizations are non-profit entities, cooperatives or social enterprises that can receive funding while maintaining their private status. The approach focuses on professional integration through support, training and temporary employment as a reintegration tool. The primary beneficiaries of these programmes are people facing labour market difficulties, the long-term

[71] CMS Law, "FAQs on Short-time Working (Kurzarbeit)", 2020.

[72] Eurofound, "COVID-19 EU PolicyWatch: Extension of Short-time Working Allowance (Kurzarbeitergeld)", 2020.

[73] Alexandra Effenberger, Michael Koelle and Andrew Barker, "Germany's Short-time Work Scheme: Can its Past Success Be Replicated?", *OECD Ecoscope Blog*, 24 June 2020.

[74] Government of the Netherlands, Wet allocatie arbeidskrachten door intermediairs – BWBR0009616 (Act on the Allocation of Workers by Intermediaries), 1998, amended 2025.

[75] Légifrance, Décret n° 2021-1128 du 30 août 2021 relatif à l'insertion par l'activité économique (Decree No. 2021-1128 of 30 August 2021 relating to integration through economic activity).

unemployed and individuals who require social and professional integration support.

In Poland,[76] cooperation between PES and PrEAs is governed by formal agreements that define responsibilities, recruitment terms, effectiveness goals and monitoring requirements. The emphasis is placed on measurable employment outcomes and the occupational activation of unemployed individuals. Key activities include career counselling, job intermediation and targeted training programmes. The initiatives primarily support the long-term unemployed, individuals under 30 or over 50 and social assistance recipients.

Slovakia's PES collaborates with PrEAs and NGOs through a signed memorandum[77] that outlines roles, responsibilities, data sharing and employment procedures. The PES facilitates employment by offering incentive programmes, while PrEAs are issued permits to provide specialized employment services, such as guidance and support for jobseekers in disadvantaged situations. Additionally, the PES partners with NGOs to expand support services and adopts a holistic approach, addressing issues such as health and debt to improve jobseekers' chances of reintegration. The key target groups include disadvantaged populations, the long-term unemployed and individuals who need additional labour market support.

In conclusion, the collaboration between PES and PrEAs can be a powerful tool for improving labour market access and social inclusion for groups of workers who face heightened risks of exclusion. These groups may include young people, long-term unemployed individuals, persons with disabilities, low-skilled workers, older workers and migrants, among others. PES have strengths in terms of broad outreach and policy alignment, while PrEAs have the advantage of adaptability. By combining the strengths of both, collaborative efforts can create more responsive and tailored services. These may take the form of specialized training programmes, targeted job matching or a holistic approach. When appropriately designed and implemented, such partnerships may support improved access to employment opportunities for groups in vulnerable situations and contribute to more balanced labour market outcomes. Coordinated efforts, including information-sharing and alignment of objectives, can help to address employment gaps, facilitate transitions into formal employment and enhance access to available services.

[76] Act on Employment Promotion and Labour Market Institutions, 20 April 2004.

[77] Act No. 5/2004 Coll. on Employment Services and on the Amendment of Certain Acts.

▶ 5. PrEAs and labour migration

Throughout this guide, examples of measures of protection for all workers during recruitment processes have been presented. The ILO's *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs* provide further guidance on different actors' roles in support of fair recruitment. In addition, the 2024 *Fair Recruitment Roadmap: A Guide for National Action* represents a practical, step-by-step tool on how to operationalize fair recruitment principles at national level.

These guidelines and tools are meant to cover recruitment within and across international borders, of both national and migrant workers and jobseekers. However, it is recognized that migrant workers, especially when recruited across international borders, tend to face a higher risk of exploitation and abuse due to the complexities of cross-border recruitment processes, [78] such as concentration in sectors with weaker labour protection, language or cultural barriers, lack of accurate information and support networks, and gaps in protection mechanisms, among other factors.

Migrant domestic workers often face increased risks of exploitation and abuse, which require specific protection measures. Acknowledging this, Article 15 of Convention No. 189 requires Member States to adopt specific measures for the protection of domestic workers, including migrant domestic workers, recruited and placed by PrEAs. In addition, Paragraph 23 of the Domestic Workers Recommendation, 2011 (No. 201), encourages Member States to promote good PrEA practices in relation to domestic workers, in consideration of the principles of Convention No. 181 and Recommendation No. 188.

The protection of migrants is a core principle of Convention No. 181.[79] As laid down in Article 8(1), and following consultations with the most representative organizations of employers and workers, ratifying States shall adopt all necessary measures to provide adequate protections to migrant workers recruited or placed in their territory by PrEAs. These protective measures include laws or regulations that impose penalties, such as prohibiting PrEAs that engage in fraudulent practices and abuses.

To harmonize recruitment practices and enhance protections for migrant workers, in line with the Convention's Article 8(2), some countries have established bilateral labour agreements with destination countries. Bilateral labour migration agreements (BLMAs) refer to arrangements established between two states or agencies. These agreements outline each party's roles and specific responsibilities, detailing the actions required to achieve shared objectives related to governing labour migration. BLMAs encompass legally enforceable bilateral labour agreements as well as non-binding MoU. These agreements often include reporting obligations and provisions for monitoring recruitment agencies, penalizing fraudulent practices and facilitating access to legal recourse for workers who experience abuse.

For instance, the Agreement on Labour Cooperation between Canada and the Republic of Honduras, [80] includes obligations related to international labour standards, such as freedom of association, elimination of forced labour, abolition of child labour and non-discrimination. In Article 3, it outlines government action, including not only establishing and maintaining labour inspection divisions but also appointing and training labour inspectors or officials to monitor compliance and investigate suspected violations.

The MoU between the Department of Labour and Employment of the Government of the Republic of the Philippines and the Department of Labour and Immigration of the Government of Manitoba, Canada was signed to promote and strengthen areas of cooperation but is not intended to be legally binding. Nevertheless, the MoU details recruitment procedures, employer registration and worker selection, and explicitly prohibits charging recruitment fees. This

[78] ILO, *Global Study on Recruitment Fees and Related Costs* (second edition), 2024.

[79] As noted by the Committee of Experts in its 2010 General Survey, para 364.

[80] Signed on 5 November 2013 (in force on 1 October 2014).

demonstrates that proactive measures are in place to prevent exploitative recruitment practices, promote transparency and protect the rights of migrant workers.

Paragraph 8 of Recommendation No. 188 further states that PrEAs should inform migrant workers, in their own language or a language with which they are familiar, about the nature of the position offered and the applicable terms and conditions of employment. Taking this step to help curb abuses and protect migrant workers from exploitation, Cambodia, for instance, requires that PrEAs provide workers being sent abroad with contracts in Khmer, English and the language of the receiving country.[81] These contracts must also be submitted to the Cambodian Embassy, or to the representative mission in the host country, through the Ministry of Foreign Affairs and International Cooperation.

Some categories of migrant workers face heightened vulnerabilities to abuse and exploitation. Several countries have developed institutional and legal mechanisms to reduce the risks that migrant workers face and to enhance their preparedness before deployment. For instance, the Philippines has established the Migrant Workers and Overseas Filipinos Act of 1995 (Republic Act No. 8042 – along with its amendment Republic Act No. 10022), which provides the legal foundation for the protection of overseas Filipino workers. This legislation mandates the implementation of pre-departure orientation seminars to educate departing workers about their rights, employment terms and destination country conditions. The Philippine Overseas Employment Administration (POEA), now integrated into the Department of Migrant Workers, oversees the licensing and regulation of recruitment agencies, monitoring adherence to legal recruitment standards. Indonesia's Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers mandates comprehensive pre-departure training for all prospective migrant workers. This requirement is outlined in article 8, which specifies the state's responsibilities for putting protection in place before departure. The law emphasizes the Government's role in providing migrant workers with adequate preparation, including education and training, prior to their placement abroad. Such frameworks not only strengthen protection for migrant workers but also contribute to safer migration systems and more accountable recruitment practices (box 5.1).

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[81] Sub-Decree No. 190 on the Management of the Sending of Cambodian Workers Abroad through Private Recruitment Agencies, 2011, article 17.

▶ Box 5.1.
Kenyan PrEAs primarily for migrant workers

PrEAs in Kenya primarily focus on labour migration and the regulation of PrEAs is overseen by the National Employment Authority in collaboration with the Department of Labour Migration. Licensing and monitoring are conducted through the National Employment Authority Information Management System (NEAIMS), which facilitates document verification, inspections and background checks. For increased transparency, an inter-ministerial Vetting Committee, which includes representatives from the Ministries of Labour, Immigration, Interior Security, Foreign Affairs and the Attorney General's office, reviews applications.

To operate, PrEAs must meet a set of eligibility criteria, including being limited liability companies in Kenyan ownership, retaining a minimum share capital of 5 million Kenyan shillings and maintaining additional funds to cover repatriation and wage costs. Regulations mandate foreign employment contracts, tax compliance, police clearance and public job vacancy advertisements. Licences, valid for one year, can be revoked for ethical violations, although agencies have the right to appeal.

Mechanisms such as pre-departure training, community feedback channels and distress reporting through NEAIMS are in place. Unannounced inspections can occur and Kenyan labour attachés in other countries submit quarterly reports on recruitment practices. Social partners, like the Federation of Kenya Employers and the Central Organization of Trade Unions, also contribute to monitoring efforts.

Source: The Labour Institutions Act (No. 12 of 2007), Kenya Gazette Supplement No. 92, 17 June 2016 (Legislative Supplement No. 45).

Some countries have introduced specific regulatory measures to address the recruitment and placement of workers abroad, in addition to general frameworks for PrEAs. These measures are intended to clarify responsibilities, increase transparency in recruitment processes and provide additional guidance.

Honduras has established two separate regulations for PrEAs – the Regulation for the Operation of Private Employment Agencies and Related Services and the Regulation for the Recruitment and Hiring of Honduran Workers Abroad. As its name implies, the latter focuses specifically on setting the conditions for recruiting and hiring Honduran workers to provide services or perform work abroad (box 5.2). This specific regulation for PrEAs placing workers abroad helps to address potential legal gaps in the protection of migrant workers that might have arisen from the former regulation alone.

▶ Box 5.2.
Protecting Honduran workers abroad: Regulation for recruiting and hiring migrant workers

Issued in 2008, the Regulation for the Recruitment and Hiring of Honduran Workers Abroad establishes specific obligations and prohibitions for PrEAs engaged in recruiting and hiring workers abroad. It also sets out the conditions for obtaining and maintaining certification to operate and defines the powers of the General Directorate of Employment (the official enforcement body) to monitor PrEA compliance with the regulation.

The regulation includes various measures to protect workers. These provisions encompass, but are not limited to:

- Employment contracts for the provision of services or execution of work abroad have to be provided to workers in Honduras' official language – Spanish (art. 8).
- PrEAs have to provide workers with complete information about their rights abroad. This includes information on the rights relating to the position, contact information for the nearest Honduran consulate and/or embassy abroad and information on the labour regulations in the destination country (art. 8).
- PrEAs have to request, prior to a worker's departure, authorization for international travel from the Directorate (art. 19).
- Before international travel is authorized, employment contracts have to receive approval, through the Directorate, from the Secretary of State in the Offices of Labour and Social Security (art. 26).

Worker protections outlined in the regulation include safeguarding fundamental rights at work. For instance, PrEAs are prohibited from placing minors in jobs abroad and are obliged to cooperate in combating human trafficking and engage in anti-discrimination activities.

Source: Reglamento para el reclutamiento y contratación de trabajadores hondureños para el extranjero (Regulation for the recruitment and hiring of Honduran workers abroad), issued via Agreement No. STSS-252-08.

In the Americas, Peru outlines specific obligations for PrEAs engaged in the placement of workers abroad in its Regulatory Rules for the Operation of PrEAs.[82] These specific obligations must be fulfilled in addition to the general obligations for the placement of all workers. For instance, to prevent a misrepresentation of employment opportunities, PrEAs are required to provide jobseekers with detailed information about the job offer abroad. As a minimum, this includes details about the employer, the length of the work contract, the responsibilities of the worker, working conditions and labour rights, and living conditions in the destination country (for example, official language, living expenses and macroeconomic conditions), among others. Additionally, PrEAs must supply workers who are being placed abroad with the contact information of the nearest Peruvian embassy and/or consulate in their destination country, as well as in any transit country. PrEAs are obligated to disseminate information to workers about their rights as migrants and to send a copy of the work contract to the national registry of PrEAs (RENAPE, by its Spanish acronym), within 30 days of the worker's departure. See box 5.3 for an example of reporting obligations from Viet Nam.

[82] Approved via Supreme Decree No. 020-2012-TR.

▶ Box 5.3.
Vietnamese detailed reporting obligations for overseas worker deployment

Viet Nam imposes reporting obligations on agencies and organizations deploying workers overseas. The Department of Overseas Labour (DOLAB) requires notification whenever workers are recruited, with a list of deployed workers being sent to Vietnamese consular missions. Workers bound for Taiwan (China), China and Japan must be reported to DOLAB before applying for work visas, while domestic workers heading to Saudi Arabia must be named on a pre-departure list sent to the Department of Labour, Invalids and Social Affairs. Additionally, all agencies must report the number of workers deployed and those returning home on a monthly basis.

State-owned and non-profit organizations must submit their labour-supply contracts to the Ministry of Labour, Invalids and Social Affairs (MOLISA) before worker deployment and provide the names of workers to Vietnamese diplomatic missions upon departure. Companies managing overseas projects with Vietnamese workers must share copies of their contracts with MOLISA at least 20 days prior to deployment and coordinate with diplomatic missions in the destination country.

Source: ILO, *Achieving Fair and Ethical Recruitment: Improving Regulation and Enforcement in the ASEAN Region*, 2022.

Another critical provision for protecting all workers, but especially relevant for migrant workers, is the non-charging principle outlined in Article 7 of Convention No. 181. As discussed in section 2 above, while the second and third Paragraphs allow for limited exceptions prescribed by law while setting out a reporting obligation to the ILO, respectively, the first Paragraph establishes the non-charging principle as a core function of the Convention. In their efforts to prevent fraudulent practices by recruiters and the abuse of workers, some ratifying States integrate the non-charging principle into regulations specifically addressing migrant workers.

For instance, Canada's province of Manitoba sets out clear prohibitions on the charging of foreign workers in its Worker Recruitment and Protection Act, as well as enforcement mechanisms for PrEAs who violate this principle (box 5.4).

▶ Box 5.4.
Migrant recruitment protections in the Province of Manitoba, Canada

The Manitoba Worker Recruitment and Protection Act 2008 (WRAPA) establish the requirements for obtaining a licence for:

- employment agencies;
- individuals involved in recruiting foreign workers;
- anyone involved in recruiting or representing children under the age of 17 who perform as entertainers or models.

It also sets out the conditions for obtaining such licences, the obligations and prohibitions that arise and the mechanisms for enforcement. WRAPA provides clear and explicit requirements to protect foreign workers, defined as individuals recruited under immigration or foreign temporary worker programmes to be employed in Manitoba.

Regarding the non-charging of workers, article 15(4) of WRAPA prohibits agencies and individuals involved in foreign worker recruitment from charging fees, either directly or indirectly, to workers for finding or attempting to find employment for them. Furthermore, licensees engaged in foreign worker recruitment who violate their obligations under this Act may forfeit their deposits. These forfeited funds can then be used to reimburse foreign workers for any undue fees charged to them (article 20(4)).

Source: The Worker Recruitment and Protection Act, C.C.S.M. c. W197.

Regarding Convention No. 181, recent ratifications reflect a growing international commitment to increasing the protection of migrant workers. In some cases, efforts to safeguard workers being recruited and placed by PrEAs have been accompanied by the ratification and implementation of other international labour standards related to fair recruitment.

For instance, in 2023, Nigeria upgraded its labour market governance by ratifying and implementing both Convention No. 181 and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). This initiative responded to challenges exacerbated by global crises, such as the COVID-19 pandemic, aiming to enhance support and protections for migrant workers and other groups in vulnerable situations.[83] Similarly, Tunisia has made efforts to establish better governance of PrEAs, in particular for migrant workers (box 5.5).

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[83] ILO, "How ILO Missions Supported the Ratification of C181 in Nigeria: Case Study on the Ratification of Convention 181", 2023.

Box 5.5.
Strengthening governance and accountability in Tunisia

To enhance fair recruitment practices and labour migration governance, Tunisia has strengthened the governmental authority of its PES by introducing training programmes, automated reporting tools and new procedures for compliance with legislation regulating PrEAs. Reforms targeting PrEAs, introduced in 2019, have established guidelines for their operations. Inspectors have been trained to enforce these regulations, while model contracts and standardized protocols have been developed to promote fair and transparent recruitment processes. Collaborative consultations with stakeholders have further supported compliance and accountability.

The engagement of PrEAs in this reform process has been supported by training initiatives focusing on compliance with new legal requirements. These efforts include the development of standardized inspection protocols and tools to guide agencies in adhering to fair recruitment principles. Tunisia has also advanced the unionization of migrant workers by establishing migrant resource centres and designating specific entities as focal points to provide direct services, raise awareness and advocate for inclusive policies.

Source: Integrated Programme on Fair Recruitment Phase II (FAIR II) Project Code (GLO/18/53/CHE) – Progress Report; Act No. 2010-49 of 1 November 2010, supplementing Act No. 85-75 of 20 July 1985, relating to the regime applicable to technical cooperation personnel; Decree No. 2010-2948 of 9 November 2010, laying down the terms, conditions and procedures for granting authorization for private entities to carry out placement activities abroad.

By implementing regulatory measures and fostering international cooperation, Member States can create a more appropriate and transparent recruitment landscape that prioritizes the rights and well-being of migrant workers. Effective enforcement, continuous monitoring and stakeholder engagement are ways to develop measures to prevent exploitation and promote fair recruitment practices. As more countries align their national frameworks with the provisions of Convention No. 181 and with the ILO's *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs*, the global recruitment system can move towards greater accountability, reducing vulnerabilities and enhancing protections for migrant workers globally.

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▶ 6. Freedom of association, collective bargaining and social dialogue

Freedom of association and the right to collective bargaining are fundamental principles and rights at work, enshrined in the Constitution of the ILO and affirmed in the Declaration on Fundamental Principles and Rights at Work. These rights are also the basis for social dialogue,[84] with their respect and protection being prerequisites for effective and inclusive social dialogue[85] and the creation of fair and equitable labour markets. At the same time, consultations between governments and the social partners are essential to ensure that the fundamental principles and rights at work are respected.[86]

Reflected in various international labour standards, freedom of association, collective bargaining and social dialogue are key contributors to well-functioning and inclusive labour markets. In the context of PrEAs, it is essential that governments take action so that employers and workers alike may exercise their rights to freedom of association and collective bargaining and to effective tripartite consultation.

Although given their own chapter here to highlight their importance, it should be noted that these principles and rights form the basis of this entire guide.

Freedom of association and collective bargaining

Encompassed in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and in the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), freedom of association and collective bargaining are, along with the other fundamental rights, enabling conditions for the realization of decent work.[87] Regarding PrEAs, Article 4 of Convention No. 181 enshrines these rights, explicitly protecting workers recruited by all types of agencies from violations of their right to freedom of association and their right to bargain collectively. In this regard, measures are required to ensure that workers are not denied these rights, including in cases where workers leave the territory of the sending State.[88] In addition, providing further protections to workers employed by temporary work agencies, Article 11 of Convention No. 181 obliges governments to take the necessary measures to safeguard these and various other rights at work, in accordance with their national law and practice.

At the regional level, the EU lays down the right to collective bargaining under Article 28 of the Charter of Fundamental Rights of the European Union.[89] The Charter grants both employers and workers the right to negotiate and conclude collective agreements, as well as to take collective action, including strikes, to defend their interests. Similarly, Directive 2008/104/EC on temporary agency work reinforces the autonomy of social partners to negotiate and conclude collective agreements while adhering to national laws and overarching EU regulations. In the Netherlands, the national regulation does not differentiate between private employment placement agencies and temporary work agencies, viewing both as intermediaries between jobseekers and employers. This triangular relationship structure positions agencies as both employers and intermediaries.[90] There is also a specific regulatory act that makes collective labour agreements (CLAs) binding, including for workers employed by PrEAs. The system in place allows for CLAs to be universally binding, ensuring that agency workers

[84] As noted by the Committee of Experts in its 2024 General Survey – ILO, Labour administration in a changing world of work, International Labour Conference, 112th Session, 2024 (hereafter 2024 General Survey), para. 335.

[85] ILO, *Social Dialogue Report 2024: Peak-level Social Dialogue for Economic Development and Social Progress*, 2024.

[86] As noted by the Committee of Experts in its 2024 General Survey, para. 335.

[87] ILO, *ILO Declaration on Social Justice for a Fair Globalization*, adopted by the International Labour Conference at its 97th Session, 10 June 2008.

[88] As noted by the Committee of Experts in its 2010 General Survey, paras 350 and 351.

[89] European Union Agency for Fundamental Rights (FRA), Article 28 – Right of collective bargaining and action, Title IV (Solidarity), EU Charter of Fundamental Rights.

[90] Government of the Netherlands, Wet allocatie arbeidskrachten door intermediairs – BWBR0009616 (Act on the Allocation of Workers by Intermediaries), 1998, amended 2025.

are included in the sector's collective agreements, which are extended to all workers within the sector.[91]

Other countries around the world have also provided explicit protections for freedom of association and collective bargaining in their PrEA regulations. In the DRC, the conditions for the creation and operation of PrEAs are established via ministerial decree.[92] Article 12 of the Decree states that, in accordance with existing employment and labour laws, PrEAs are specifically responsible for collective bargaining. Suriname, similarly, protects these rights under the Private Employment Agencies Act, which regulates temporary work agencies. [93] Under article 12(3) of this Act, temporary workers are free to establish trade unions within the broader framework of Suriname's Freedom of Association Act 2016.

Freedom of association and the effective recognition of the right to collective bargaining are fundamental to the functioning of social dialogue, serving as key mechanisms in the governance of labour markets. The recognition of these rights highlights their central role in shaping fair and equitable labour markets, facilitating collaboration between social partners and promoting sustainable labour relations. By upholding these principles, societies can guarantee that collective bargaining remains a legitimate tool for promoting workers' interests and fostering balanced and inclusive economic growth.

Social dialogue

Central to the functioning of the ILO, social dialogue is a cornerstone of good governance in contemporary labour markets and embedded in practically all Conventions and Recommendations.[94] Social dialogue is crucial for the full operationalization of ILO instruments, with the provisions in many Conventions and Recommendations explicitly requiring consultations with the social partners to ensure their effective implementation.[95] This is also the case for key standards related to employment, including governance Convention No. 122 and technical Conventions No. 88 and No. 181. In particular, Convention No. 181 recognizes social dialogue as a vital component of a well-functioning industrial relations system, requiring consultations with the most representative organizations of employers and workers in several of its provisions.

Both a means to achieve economic and social progress and an end in itself, social dialogue includes "all types of negotiation, consultation and exchange of information between or among representatives of governments, employers and workers on issues of common interest relating to economic and social policy".[96]

In the spirit of social dialogue and tripartism, various countries and regions have made efforts to promote consultations between governments, employers and workers in the context of PrEA regulations and operations.

One example can be seen in the EU Sectoral Social Dialogue on Temporary Agency Work, [97] established between the World Employment Confederation – Europe and UNI Europa Agency Workers, which has been in place for over 20 years. Focusing on a range of issues related to the regulation and management of temporary agency work, the dialogue operates with a three-year work programme and includes key priorities such as the development of appropriate regulation, the promotion of employment policies and capacity building. It also emphasizes the importance of best practice sharing and joint projects so that temporary agency work is managed in a way that is fair, transparent and beneficial to both workers and employers.

[91] Wet op de collectieve arbeidsovereenkomst (Collective Labour Agreement Act) 2007 and Wet op het algemeen verbindend en het onverbindend verklaren van bepalingen van collectieve arbeidsovereenkomsten (Act on the general binding and non-binding declaration of provisions of collective labour agreements) 2023.

[92] Ministerial Order No. 047/CAB.VPM/METPS/2015 of 8 October 2015, amending and supplementing Ministerial Order No. 12/CAB/MIN/ETPS/062/08 of 18 September 2008.

[93] Private Employment Agencies Act – Act on the Provision of Labour by Intermediaries of 2017.

[94] As noted by the Committee of Experts in its 2024 General Survey, paras 335 and 336.

[95] As noted by the Committee of Experts in its 2024 General Survey, para. 336.

[96] ILO, *Social Dialogue and Tripartism*, ILC.107/VI(Rev.), 2018, para. 6.

[97] European Commission, "Temporary Agency Work – Sectoral Social Dialogue".

At the national level, Uruguay has established a Tripartite Consultative Commission under article 19 of its PrEA regulation, providing a platform for regular consultations between the Government, workers' organizations and employers' representatives.[98] This mechanism facilitates monitoring of the implementation of the provisions of Convention No. 181, as well as of the national regulation. A similar approach is found in Sweden, where the PES holds national dialogues with all subcontracting PrEAs (see section 4 above) and periodically convenes a Council with social partners, including trade unions and employers' organizations.[99] The Council meets biannually in a dedicated communication forum to discuss key labour market issues.

In Finland, legislative preparations to integrate unemployment funds into the employment services ecosystem (see box 7.3) involved discussions with the most representative organizations of employers and workers. These discussions reflect Finland's standard practice of incorporating social partners in the development of such legislation.[100]

Italy provides another example through Ebitemp,[101] a bipartite body dedicated to supporting temporary agency workers. Its three main functions are conducting studies, research and analyses on temporary agency work; providing workers and employers with information and raising awareness about the sector, including available services and rights; and delivering various support services, such as training programmes, healthcare access and social protection for income support. Additional services include contributions for childcare, parental assistance, health protection, accident compensation, personal loans and relocation facilitation.[102]

Collectively, these examples highlight the critical role of social dialogue in shaping labour policies and practices. Whether in national or regional contexts, the active participation of both workers and employers contributes to more responsive, balanced and effective labour market regulation.

Social dialogue can contribute to shaping policies and support systems that benefit both workers and employers. By actively engaging in social dialogue, PrEAs can strengthen their role as responsible labour market intermediaries, developing recruitment practices that uphold the principles of fairness, accountability and worker protection. Fostering collaboration between social partners can lead to concrete improvements in working conditions, skills development and social protection. Effective social dialogue benefits from a structured approach to promote meaningful engagement between stakeholders. While each context is unique, certain key steps can help to guide the process.

The information in box 6.1 has been developed as a reference tool, outlining important considerations for fostering social dialogue in this context.

[98] Government of Uruguay, Regulation of the Operation of Private Employment Agencies, adopted by Decree No. 137/016.

[99] Swedish Parliament, Förordning (2007:1030) med instruktion för Arbetsförmedlingen (Regulation 2007:1030 with instructions for the Swedish Public Employment Service).

[100] Act No. 421/2024 amending the Unemployment Insurance Funds Act No. 603/1984.

[101] Ebitemp: National Bilateral Organization for Temporary Employment, "Home page".

[102] World Employment Confederation, correspondence with authors.

Box 6.1.
PrEAs can leverage social dialogue through the following steps (non-exhaustive)

Establish structured consultation mechanisms

- Engage in regular dialogue with government authorities, employer organizations and worker representatives to align with national policies and international standards.
- Participate in national or sectoral tripartite forums to discuss recruitment regulations and labour market needs.

Promote transparency and compliance

- Utilize social dialogue to develop clear guidelines on fair recruitment, wages and working conditions.
- Foster cooperation with trade unions and employer organizations to enhance compliance with labour laws and to prevent exploitative practices.

Develop collective agreements

- Work towards industry-wide agreements that establish minimum standards for employment contracts, support the abolishment of recruitment fees and create dispute resolution mechanisms.
- Promote collective bargaining agreements that include provisions specifically addressing PrEAs and their role in labour migration.

Enhance monitoring and oversight

- Engage in oversight committees or advisory boards to monitor recruitment practices and report fraudulent activities.
- Establish grievance mechanisms in collaboration with employers' and workers' representatives to address worker complaints effectively.

Improve training and capacity-building

- Work with social partners to develop training programmes for PrEA staff on fair recruitment, labour rights, non-discrimination and anti-corruption measures.
- Support awareness campaigns to inform jobseekers about their rights and legal protections.

Foster international and regional cooperation

- Collaborate with social partners in both origin and destination countries to harmonize recruitment standards.
- Participate in bilateral or regional agreements to enhance protections for migrant workers and standardize recruitment procedures.

Source: Authors.

▶ 7. The evolving role of PrEAs in a changing labour market

Technological, demographic, geopolitical and structural influences increasingly drive changes in the labour market. These developments are gradually redefining the role and responsibilities of various labour market actors. For PrEAs, changing labour markets have been establishing a need for new and innovative approaches to their oversight, service delivery and responsibilities. While these changes and the challenges they bring are still emerging, PrEAs have begun to adapt. This section examines some of these developments in PrEAs, such as on digitalization, transitions to the formal economy and transitions to the green economy, offering insights into how PrEAs are responding to evolving labour markets.

Leveraging technology

A key area of change is the growing use of digital tools in the monitoring and oversight of PrEAs. These digital platforms are being leveraged to enhance transparency, regulate recruitment processes and improve accountability, allowing for more efficient monitoring (box 7.1).

▶ Box 7.1. Musaned: Saudi Arabia's digital recruitment platform for domestic workers

Launched in 2015, Musaned is Saudi Arabia's digital platform designed for the recruitment of domestic workers. Managed by the Ministry of Human Resources and Social Development, the platform provides the Government with data and tools to improve oversight of the employment of migrant domestic workers. Musaned's digital recruitment system has assisted the Saudi Government in monitoring and investigating violations by PrEAs and other related placement organizations.

The key objectives of Musaned are to:

- regulate and control the recruitment contracting process for migrant domestic workers;
- eliminate illegal recruitment practices in the informal sector;
- promote transparency in the recruitment and employment of domestic workers;
- serve as a source of information for employers, domestic workers and other stakeholders;
- strengthen institutional accountability by providing domestic workers with direct digital access to grievance mechanisms.

Source: ILO and International Organization for Migration (IOM), *Promoting Fair and Ethical Recruitment in a Digital World: Lessons and Policy Options*, 2020.

Bangladesh has implemented a digital recruitment monitoring platform called the Recruiting Agents' Information Management System (RAIMS), which is managed by the Bangladesh Bureau of Manpower, Employment and Training. The platform aims to improve the transparency and oversight of the recruitment process. As of 2023, more than 1,300 recruitment agencies are registered on the RAIMS platform, where they can apply for accreditation and track the progress of their applications.[103]

Similarly, managing PrEAs and guaranteeing their compliance with regulations is essential. In this context, the Philippines has developed a centralized digital system (box 7.2).

[103] ILO, "Promising Practices for Fair Recruitment – Bangladesh: Digitised Management of Recruitment Agencies", ILO Brief, 2024.

▶ Box 7.2.
Advancing digitalization in PrEA management: The Philippines' PEAMS initiative

In the Philippines, the Department of Labor and Employment, in close coordination with its Planning Service, is actively progressing the development of the Private Employment Agency Management System (PEAMS). This digital system is designed to streamline the registration, monitoring and reporting processes for PrEAs, creating a more efficient regulatory environment.

PEAMS introduces a centralized database that enhances the ability to issue licences swiftly, track important data and monitor PrEAs' compliance with existing regulations. By consolidating relevant information and processes into a single platform, PEAMS is expected to improve efficiency and effectiveness in the implementation of policies under local employment regulations.

Source: Department of Labor and Employment, Republic of the Philippines.

As digital technologies continue to reshape labour markets, artificial intelligence (AI), big data and predictive analytics are becoming increasingly essential in understanding and anticipating workforce trends.[104] Technologies are transforming how companies approach recruitment, enabling more precise and timely responses to shifts in talent needs. As a result, the recruitment landscape is evolving, and PrEAs will need to adapt to these technological advancements to maintain effective service delivery.

Insights from a recent survey show the role of technology in workforce management. The World Employment Confederation's "The Work We Want"[105] research surveyed 715 senior executives around the world and found that 80 per cent of respondents considered that talent planning is more complex now than in the past, while 81 per cent noted that developments in AI and other emerging technologies are prompting a reassessment of workforce strategies. Respondents also cited digital transformation and AI as key challenges for talent planning over the next two years.

In a practical example of AI in employment services, Job Crystal, a recruitment technology company in South Africa, combines AI with personalized service to streamline the hiring process.[106] The company offers an online career management portal where jobseekers can be directly headhunted by employers. Its platform utilizes AI to source candidates, screen applications and manage job postings across various digital channels, including social media platforms like Facebook, LinkedIn, Instagram and X (formerly Twitter). This approach aims to reduce both the time and cost of hiring while improving the quality of candidate matches.

The Adecco Group's paper *Making AI at Work – Work for Everyone* [107] sets out their position on how, with appropriate regulation, AI can enhance human capabilities, boost productivity and create jobs. It stresses the need for ethical AI design, transparency and bias mitigation, while emphasizing upskilling and collaboration among businesses, policymakers and educators so that AI can contribute to employment and societal well-being.

Given the rapid advancement of AI, it is essential that PrEAs adopt standards for the responsible and human-centred use of emerging technologies. In response to this need, the World Employment Confederation has introduced a "Code of Ethical Principles in the use of Artificial Intelligence",[108] which sets out clear guidance for ethical and responsible AI deployment. The Code emphasizes that AI should be implemented in ways that are beneficial to both individuals and society as a whole. Key principles include human-centric design, transparency, fairness and inclusivity, privacy, safety and security, and accountability. AI systems should be designed to support and enhance human capabilities, remain subject to human oversight and provide clear explanations of their decision-making processes. Furthermore, they should promote inclusivity, respect privacy and maintain robust security standards. Ethical governance and ongoing skill development are also

[104] UNCTAD, *Digital Economy Report 2024*, 2024.

[105] World Employment Confederation, "The Work We Want– Reimagining the World of Work". Additional information on this research is provided in box 4.1 above.

[106] Job Crystal, "Home".

[107] The Adecco Group, *Making AI at Work – Work for Everyone*, 2025.

[108] World Employment Confederation, "Code of Ethical Principles in the use of Artificial Intelligence", 2023.

highlighted as essential components to support responsible use of AI.

Integrating digital technology into national employment strategies remains a relatively recent initiative. However, the convergence of employment policies and digital related frameworks can create an instrument for the future. Realizing this potential demands the engagement of a diverse range of partners, from labour market stakeholders to the ministries and agencies tasked with driving the digital economy. Going forward, employment frameworks will need to incorporate a broader array of digital and technological elements to guarantee that they will not only fuel business growth and economic performance but also expand and improve the quality of work while safeguarding workers' rights.[109] Digital transformation is inevitable, and PrEAs should be prepared to adapt their services accordingly. By adopting digital tools and leveraging new technologies, PrEAs can better address a wide spectrum of labour market challenges. At the same time, a human-centred approach is equally crucial. PrEAs should aim to design and deliver digital solutions that prioritize accessibility and workers' rights, ensuring that technological progress genuinely serves the workforce.

Responding to changing needs

In addition to technological advancements, broader structural transitions are reshaping labour markets globally. Key among these are demographic changes driven by population ageing, ongoing efforts to transition from informal to formal employment and the shift towards greener economies. This section explores how these transitions are impacting employment services and the role that PrEAs can play in supporting inclusive, sustainable workforce adaptation.

Many developed countries are experiencing shrinking labour forces due to ageing populations. This demographic shift is expected to exacerbate labour shortages in certain sectors, as the participation rates of older workers decline and younger cohort numbers are insufficient to fill the gaps.[110] Given this demographic situation, PrEAs can adopt approaches for implementing upskilling and reskilling programmes, in collaboration with PES or educational institutions, or through the development of in-house training initiatives. These initiatives can contribute to preparing workers for employment in specific sectors, particularly those facing skill shortages.

For example, the Adecco Group has established an apprenticeship school in France, offering training for up to 17 different professions through a dual learning approach that combines classroom instruction with practical experience.[111] In Belgium, the Adecco Group operates a Forklift Academy using virtual reality technology, allowing trainees to safely practise forklift operations in a controlled environment.[112] Additionally, Humando, a social enterprise within the Adecco Group in France, has launched numerous initiatives to support the (re)integration of individuals into the labour market, particularly focusing on refugees and persons with disabilities.[113]

The bipartite training funds available in countries such as the Netherlands, Belgium, Italy and France are another example of how countries are addressing skill gaps and promoting workforce development.[114] These funds are dedicated financing mechanisms, often established through collective agreements, that collect levies from employers – sometimes supplemented by public or EU funds – to finance training initiatives aimed at developing workforce skills. They operate at national or sectoral levels and are typically managed jointly by employer associations and trade unions, redistributing resources to support vocational education and training for workers, especially in sectors that are experiencing skill shortages. PrEAs can be involved as training providers or intermediaries, depending on national systems.

These collaborations have proven to be an effective strategy, particularly in industries that require specific and advanced competencies to meet the evolving needs of the labour market.

In the Netherlands, PrEAs are currently facing challenges in a tight labour market, characterized by a high demand for workers and a shortage of jobseekers. To respond to these conditions and promote a sustainable and decent labour market, the Dutch Government has been preparing a new bill for the

[109] ILO, *Digital Transformation in Employment Policies*, 2024.

[110] ILO, *World Employment and Social Outlook: Trends 2025*, 2025.

[111] The Adecco Group, "La Grande École de l'Alternance".

[112] Adecco Forklift Academy, "Home".

[113] Adecco Group, "Humando".

[114] CEDEFOP, "Training Fund".

regulation of PrEAs.[115] In this new bill, agencies must obtain official approval before operating and meet specific conditions, including submitting a Certificate of Good Conduct, paying a €100,000 deposit and demonstrating compliance with wage and tax regulations. Ongoing compliance will be monitored through regular inspections by the Labour Inspectorate and only those agencies that meet the approval criteria will be permitted to operate.

The growing need for labour market facilitation and intermediation, particularly in the aftermath of the COVID-19 pandemic and subsequent multiple crises, has led many countries to include non-traditional actors in the employment services ecosystem. Finland provides such an example with its practice of expanding the role of unemployment funds in delivering employment services (box 7.3).

▶ Box 7.3. Unemployment funds act as PrEAs in Finland

Since 2024, legislation in Finland allows unemployment funds to provide employment services. Previously, these funds were solely responsible for distributing unemployment benefits. Under this new framework, unemployment funds can offer services such as employment support, information, advice, guidance, assessments and coaching to assist jobseekers in finding employment. These services are not intended to replace public employment and business services. Participation in these services, as well as their provision, remains voluntary, with no sanctions imposed on jobseekers for non-participation.

The services are financed through the funds' cash reserves. During the preparation of the legislation, an assessment of ILO Convention No. 181, Article 7 was conducted, ensuring alignment with its provisions. National legislation explicitly prohibits charging fees to jobseekers using PrEA services, including employment support, information, advice and guidance services. To comply with the law, any unemployment fund providing these services must make them accessible to everyone, not just its own members.

The initiative to allow unemployment funds to provide employment services originated from the funds themselves. However, the legislative process included extensive discussions with the most representative organizations of employees and employers, reflecting Finland's standard practice when developing laws related to unemployment benefits.

Source: Finnish Government, Act No. 421/2024 amending the Unemployment Funds Act No. 603/1984.

The transition from the informal to the formal economy is another critical aspect of achieving inclusive and sustainable economic growth. PrEAs can play a pivotal role in this process by bridging the gap between informal labour and formal employment opportunities, offering recruitment channels and providing workers with access to social protections and rights that are often absent from informal agreements (see section 3 on Legislative framework and oversight for PrEAs) (box 7.4)).

[115] House of Representatives of the Netherlands, Wet toelating terbeschikkingstelling van arbeidskrachten (Employment Authorisation Act), 2023.

▶ Box 7.4.
The role of PrEAs in formalizing India's workforce: TeamLease

PrEAs in India are engaged in formalizing employment. For example, a leading PrEA, TeamLease, is focusing on creating formal employment opportunities for workers in the informal sector.

TeamLease has rolled out the Ghost Employee Elimination, Attrition Reduction, Productivity Enhancement through Technology and Statutory Compliance (GAPS) frameworks to align with India's new labour codes.

- **Ghost Employee Elimination** tackles the challenge of distinguishing genuine workers from non-existent ones, a common issue for companies overseeing informal labour.
- **Attrition Reduction** focuses on retaining talent by improving working conditions and career pathways.
- **Productivity Enhancement with Technology** leverages digital tools to boost operational efficiency and performance tracking.
- **Statutory Compliance** aims to align all labour practices with the latest legal requirements, thereby minimizing risk and administrative complexity.

TeamLease also provides training and placement services that help individuals to transition into formal jobs with full social security benefits. To further this mission, it established TeamLease Skills University, India's first dedicated vocational skills university.

Source: Staffing Solution – Leading Staffing Services Company in India; Distribution Channel Revolution: Eliminating Ghost Employees; Vocational and Skill Education – TeamLease Skills University (TLSU).

The Confederation of Associations in the Private Employment Sector (CAPES), the organization representing PrEAs and temporary employment services in South Africa, works alongside government partners to develop enabling transition policies and boost formal employment. CAPES provides training and placement services to help workers to find formal jobs and advocates for a labour market that is flexible, efficient and globally competitive.[116]

Climate change and environmental degradation are gaining growing attention in global policy discussions due to their significant impact on economic growth, social progress and overall well-being. The rising need for sustainable development that integrates both environmental protection and decent work has led to key advancements in recent years. [117] The Adecco Group's "Skills for the Green Economy" [118] initiative highlights the importance of investing in skills and reskilling to support the transition to a sustainable, low-carbon economy. It emphasizes that without investment in skills development, the global economy could lose up to 71 million jobs as it shifts to circular models. However, by focusing on proactive reskilling efforts, particularly in the energy sector, a net gain of 18 million jobs could be created. It also points out that approximately 1.47 billion jobs worldwide are dependent on a stable climate, and it is projected that 85 per cent of the jobs that people will do in 2030 have yet to be created, underscoring the necessity of preparing the workforce with relevant skills.

As the transition to a greener economy accelerates, the role of employment services in supporting skills development becomes increasingly relevant. Addressing the skills gap is a shared responsibility among stakeholders, including governments, employers, workers and employment service providers. Bridging this gap requires coordinated efforts to anticipate labour market changes, align training with future job demands and create pathways for workers to access new opportunities in sustainable sectors. PrEAs around the world have begun adapting their services to accommodate the green economy.

[116] CAPES – Voice of the Staffing Industry, "Advocating for Private Employment Services".

[117] ILO, *Green Jobs, Green Economy, Just Transition and Related Concepts: A Review of Definitions Developed Through Intergovernmental Processes and International Organizations*, 2023.

[118] The Adecco Group, *Skills for the Green Economy: Why Investing in People is Key*, 2021.

Examples from Germany and the United Kingdom show how PrEAs can contribute to promoting green jobs and employment opportunities in green sectors. In Germany, for instance, the PrEA platform Greenjobs offers a range of recruitment services to sustainable companies, helping employers to find professionals with the right (green) skills and a sustainability mindset.[119]

The Recruitment and Employment Confederation (REC), the largest professional body for recruitment in the United Kingdom, collaborates with businesses to identify and fill green jobs vacancies.[120] In addition to recruitment support, the REC plays an active role in research and capacity-building to help workers transition into green sectors. In 2024, the REC published a report titled *Defining Green Jobs*,[121] highlighting the lack of a consistent definition of green jobs across the United Kingdom – even among government departments – and proposed a definition for green jobs to facilitate more coherent policymaking and better coordination among stakeholders involved in the green transition.

PrEAs also can leverage their workforce development expertise to support the green transition by training workers for sustainable, in-demand roles in sectors such as renewable energy (box 7.5).

▶ Box 7.5. Randstad's commitment to a sustainable future: Driving the green transition through workforce development

Randstad, a global leader in human resource consulting based in the Netherlands, plays an active role in shaping a more sustainable and equitable society. Guided by its global environmental policy and integrated reporting framework, the company aims to operate in ways that are both environmentally conscious and economically viable.

Randstad also prioritizes upskilling and reskilling to prepare the workforce for green economy demands. In Germany, the Randstad Academy collaborates with educational institutions in areas such as metalworking, electrical engineering and industrial mechanics to equip workers with the skills needed in the renewable energy industry. Over 100 individuals have completed this training and now work as qualified professionals, either on client projects or as permanent employees. In France, Randstad delivers vocational training for roles such as installation technicians and electricians, particularly in sectors related to energy efficiency, solar energy and waste management.

Source: https://www.randstadusa.com/; *Randstad Sustainability Report: Empowering Clients, Talent and Communities*, 2024.

A green economy is beginning to take shape, with several cities and countries implementing policies that suggest a self-reinforcing shift towards sustainability. For example, in 2015, the Dubai Clean Energy Strategy was announced, setting a target of generating 75 per cent of the city's energy from renewable sources by 2050.[122] Supporting this transition, EnableGreen – an international recruitment agency based in Dubai with a focus on sustainability and environmental, social and governance (ESG) impact – connects skilled professionals with organizations across sectors such as renewable energy, clean technology, sustainable finance and climate change.[123]

Various actors have a crucial role to play in advancing the green transition. Governments are encouraged to design policies that protect workers during industrial transformations, enhance labour market adaptability and treat workforce development as a strategic investment in sustainability and green economy perspectives. Employers should assess and anticipate future skill requirements, invest in reskilling and upskilling programmes, implement apprenticeships and work-based learning, and foster a culture of continuous learning. Individuals are advised to take ownership of their skill development, embrace career

[119] greenjobs.de – Umwelt macht Karriere, "Home".

[120] REC, "About the REC".

[121] REC, *Defining Green Jobs*, 2024

[122] UAE Government, "Dubai Clean Energy Strategy".

[123] EnableGreen, "Empowering Sustainability Recruitment Globally".

adaptability and engage in lifelong learning to remain competitive in the changing job market.

Building on this, PrEAs are encouraged to tailor their recruitment, training and workforce development strategies to support the growing demand for green skills and sustainable employment pathways. By leveraging their industry expertise, access to labour market data and close connections with employers and jobseekers, PrEAs can advance the equipping of workers for roles in environmentally focused sectors. In doing so, they can enhance employability while contributing to broader goals of environmental sustainability and inclusive economic growth.

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▶ 8. Conclusions

PrEAs have evolved within current labour markets and contribute to increasing labour market efficiency. Collaborative efforts among governments, employers and workers, their representatives and PrEAs play a key role in promoting efficient, transparent and fair recruitment processes. Such cooperation takes a more holistic approach to leveraging the benefits of PrEAs while strengthening protections for workers against the risks of exploitation and unfair practices. In their role of offering adaptable and responsive recruitment approaches, PrEAs can support labour market developments and drive efficiency in intermediation and facilitation.

This updated guide highlights the complexities and opportunities surrounding PrEAs around the world, showcasing their potential roles in responding to dynamic labour markets. Specifically, it provides an outline of frameworks and mechanisms for regulating PrEAs, emphasizing the importance of legislative approaches, enforcement systems and effective oversight mechanisms, which includes levelling the field for serious intermediation actors. The inclusion of practical examples and best practices aims to further equip policymakers and regulators with actionable tools to navigate the role of PrEAs. By utilizing these elements, stakeholders can promote and optimize the resources within labour market facilitation and intermediation.

1. **Emphasizing the development of robust legislative frameworks for governing PrEAs.** The guide provides insights into Convention No. 181 and Recommendation No. 188, the up-to-date international labour standards that embody a modern regulatory approach to PrEAs, as well as examples of how countries have implemented their provisions. By detailing the need to fulfil requirements before being allowed to operate and have defined roles for oversight, the guide shows how PrEAs can be effectively integrated into governmental labour market policies and priorities. This highlights the continued importance of developing and adapting the regulatory frameworks surrounding PrEAs to respond effectively to emerging trends and challenges.
2. **Monitoring and compliance mechanisms remain at the core of effective regulation for PrEAs.** The guide provides details of tools such as regular inspections, mandatory monitoring and reporting requirements that enable regulators to assess whether PrEAs are operating fairly and in accordance with labour laws. By establishing clear responsibilities for monitoring bodies and creating mechanisms for stakeholder participation, this approach illustrates how compliance efforts can be made more transparent and inclusive.
3. **Fair recruitment is a cornerstone of this updated guide, with an expanded focus on promoting transparency and equity in PrEA operations.** Fair recruitment can be carried out in a way that protects the internationally recognized rights of workers, as embodied in international labour standards, while allowing adaptability to the needs of the labour market. Transparent, regulated and effectively enforced recruitment processes, as laid down in the ILO's *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs* and relevant ILO instruments, are crucial for recruitment processes that benefit workers, employers and governments. The importance of eliminating recruitment fees charged to workers is emphasized and measures to prevent exploitative and fraudulent practices are outlined.
4. **Migration presents unique opportunities and challenges, particularly in relation to fostering fair recruitment practices and protecting the rights of migrant workers.** PrEAs play a pivotal role in facilitating labour mobility, acting as intermediaries that connect jobseekers with employers across regions and borders. The guide highlights how PrEAs can support safe and fair migration by adhering to established principles, ensuring transparency in contracts and safeguarding both workers and employers against exploitation and discrimination. There is a need for PrEAs to work within robust regulatory frameworks and participate in regional and international collaborations, including through bilateral or multilateral agreements that govern recruitment processes for migration.
5. **Technology can support efficient labour markets and recruitment practices.** Some PrEAs are gradually integrating digital tools into their operations to enhance efficiency and expand

outreach. It is expected that both the opportunities and the challenges posed by digitalization will increase, including the rise of online recruitment platforms and AI-based hiring systems. If PrEAs can adapt to this trend with well-managed, human-centric approaches, technology can offer opportunities for improving processes and responding to labour market demands, balanced with effective implementation.

6. **The ability to adapt to demographic shifts and increased mobility and strengthen labour market resilience is vital.** The guide explores the implications of demographic changes, including increased labour mobility and the need for PrEAs to adapt to these shifts. Additionally, it incorporates lessons from past challenges, emphasizing the importance of resilience and adaptability in maintaining labour market functionality during crises. As populations age and migration patterns evolve, PrEAs are encouraged to adjust their services to support a more diverse and mobile workforce. This can include identifying emerging skills needs, promoting inclusive recruitment practices and contributing to labour market policies that anticipate and respond to demographic changes, as well as supporting the broader goals of environmental, social and economic sustainability.

7. **The collaboration between PES and PrEAs is highlighted as a critical strategy for addressing labour market challenges.** The guide outlines frameworks for impactful partnerships, including shared responsibilities for training, job matching and labour market analysis. By leveraging the strengths of both public and private entities, these partnerships can enhance service delivery and expand access to employment opportunities. Examples of collaborative models showcase how joint efforts can mitigate labour market issues, address skills mismatches and support workers in vulnerable situations.

8. **Social dialogue is key for creating inclusive and transparent legislative and policy frameworks for PrEAs, with freedom of association and collective bargaining being the basis of effective social dialogue.** Social dialogue can contribute to increased communication and collaboration between governments, employers and workers, and their representatives, allowing diverse perspectives to shape policies that address the needs of the labour market. By fostering consensus-building and trust, social dialogue can help to support the effective implementation of regulations and provide a basis for addressing challenges in the labour market. Furthermore, as freedom of association and recognition of the right to collective bargaining are fundamental principles and rights at work, they are prerequisites for effective and inclusive social dialogue.

9. **The importance of fostering accountability and transparency in the operations of PrEAs as a cornerstone of fair and effective recruitment practices is highlighted.** The guide introduces the role of oversight mechanisms, such as mandatory reporting and regular audits, to monitor compliance with labour laws and regulations. These measures not only support PrEAs in adhering to established regulations but also promote trust among stakeholders, including governments, workers, employers and the public. Such efforts are key to aligning the operations of PrEAs with the broader goals of fairness, efficiency and respect for workers' rights.

10. **By connecting examples of legislative and legal mechanisms around the world, the guide includes an array of case studies from diverse national contexts.** These examples highlight regulatory practices, enforcement mechanisms and different models from a wide range of countries. By addressing topics such as dispute resolution, enhancing accessibility and transparency, and regulating the recruitment and hiring of migrant workers, the guide provides stakeholders with actionable insights into tackling different challenges. These examples also illustrate how countries have approached the inherent balancing act of providing employment services, which involves responding to labour market needs while promoting decent work.

By synthesizing these key themes, the guide highlights the role of PrEAs in contributing to the development of fair, transparent and efficient labour markets. As labour markets continue to evolve, the areas addressed in this concluding section will remain important for supporting sustainable employment practices and enhancing both regulatory effectiveness and adaptability. By engaging with these priorities, stakeholders can help to foster a more inclusive and responsive recruitment environment that respects workers' rights and contributes to broader economic development.

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