



International
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 THE SOUTHERN
AFRICAN 

MIGRATION MANAGEMENT
PROJECT

Fair recruitment and
decent employment for
migrant workers

As labour migration expands, so does the need for fair and ethical recruitment and placement services in order to avoid abuses and improve labour matching. Multiple international instruments, resources, guidance material, and initiatives have been developed in recent years, supported by international organisations, civil society, the private sector, and the business and human rights community,

Three important ILO Conventions cover work in this area. The most important is ILO Convention 181 on Private Employment Agencies, which was adopted in 1997 and sets out the international framework to strengthen recruitment regulation

- a) The **Employment Service Convention, 1948 (No. 88)** which calls for “effective co-operation between the public employment service and private employment agencies;
- b) The **Migration for Employment Convention (Revised), 1949 (No. 97)** along with its Annexes I and II of the Migration for Employment Recommendation (Revised), 1949 (No. 86) that define the notions of recruitment, introduction and placement of migrant workers and provide significant policy guidance;
- c) The **Private Employment Agencies Convention, 1997 (No. 181)** which purpose is to “allow the operation of private employment agencies as well as the protection of the workers using their services”.

Nevertheless, despite existing international labour standards, national laws and their enforcement often fall short of protecting the rights of workers, and migrant workers in particular. In this context, organisations such as ILO and IOM have launched mutually reinforcing initiatives to support governments, the private sector, the labour movement and civil society to enhance migrant worker protection across the recruitment and labour migration process.

ILO launched in 2014 *The Fair Recruitment Initiative* whose main objectives are to:

- strengthen laws, policies and enforcement mechanisms in line with ILO Private Employment Agencies Convention (No. 181) and other standards;
- promote fair business standards and practices; and
- foster social dialogue and partnerships; and,
- promote good practices within the industry and beyond.”

The following year IOM initiated the IRIS: Ethical Recruitment Initiative. More information about these initiatives can be found on their respective websites.

The Southern Africa Migration Management (SAMM) will include activities scaling up work on fair and ethical recruitment of migrant workers in the SADC region through the dissemination and application of the Fair Recruitment Initiative and IRIS. This will include socialising key international instruments and resources, such as the “ILO General Principles and Operation Guidelines for Fair Recruitment” and the new definition of Recruitment Fees and Costs, the IRIS Standard and the Montreal Recommendations on Recruitment: A Road Map towards Better Regulation.. Work could involve the pilot-testing of the World Bank/ILO “Guidelines on Measuring Recruitment Costs” possible expansion with ITUC-Africa of the “Recruitment Advisor”, direct engagement of labour recruiters on the basis of the IRIS Standard and its Capacity Building Programme, capacity development with public authorities on various aspects of recruitment regulation and migrant worker protection, as well as leveraging the membership of governments across southern Africa in the IRIS Global Policy Network to ensure lessons learned are captured and disseminated across the region, and beyond. Lastly, work will also involve the promotion of ratification of C181 and C. 189.

¹ ITUC: **Migrant Recruitment Advisor**, April 2018: <https://www.ituc-csi.org/ituc-launches-migrant-worker>

The MRA is a web platform that allows workers to comment on their experiences, rate the recruitment agencies and learn about their rights. It lists thousands of agencies in Nepal, Philippines, Indonesia, Qatar, Saudi Arabia, Hong Kong, Malaysia, Singapore, and other countries. The Recruitment Advisor will promote recruiters who follow a fair recruitment process. Initially available in English, Indonesian, Nepali and Tagalog, it will be further developed in more languages.

MAIN SAMM ACTIVITIES:

- SADC Guidelines on Fair and Ethical Recruitment;
- Review of the Public Employment Services and Private Employment Agencies' legal, and policy framework as well as fair and ethical recruitment of migrant workers' practices and other labour migration-related work in the SADC and IOC region.
- Technical Support to SADC Member States on the revision of their national legislation on Private Employment Agencies and Public Employment Services recruitment of migrant workers.
- Fair and Ethical Recruitment Charter for IOC Employers.

GCM RELATED PARAGRAPHS

GCM **Objective 6** of the Global Compact on Safe, Orderly and Regular Migration (GCM) aims at "Facilitating fair and ethical recruitment and safeguard conditions that ensure decent work". Member States commit to review existing recruitment mechanisms to guarantee that they are fair and ethical, and to protect all migrant workers against all forms of exploitation and abuse in order to guarantee **decent work and maximize the socioeconomic contributions of migrants in both their countries of origin and destination**. Specific actions related to GCM 6 include to:

- (a) Promote signature and ratification of, accession to and implementation of relevant international instruments **related to international labour migration, labour rights, decent work and forced labour;**
- (b) Build upon the work of existing bilateral, subregional and regional platforms that have overcome obstacles and identified best practices in **labour mobility**, by facilitating cross-regional dialogue to share this knowledge, and to promote full respect for the human and **labour rights of migrant workers at all skills levels**, including migrant domestic workers;
- (c) **Improve regulations on public and private recruitment agencies in order to align them with international guidelines and best practices, and prohibit recruiters and employers from charging or shifting recruitment fees or related costs to migrant workers in order to prevent debt bondage, exploitation and forced labour, including by establishing mandatory, enforceable mechanisms for effective regulation and monitoring of the recruitment industry;**
- (d) Establish partnerships with all relevant stakeholders, including employers, migrant workers' organizations and trade unions, to ensure that migrant workers are provided with written contracts and are made aware of the provisions therein, the regulations relating to **international labour recruitment and employment in the country of destination, and their rights and obligations**, as well as of how to access effective complaint and redress mechanisms, in a language they understand;
- (e) Enact and implement national laws that sanction human and labour rights violations, especially in cases of forced and child labour, and cooperate with the private sector, including employers, recruiters, subcontractors and suppliers, to build partnerships that promote conditions for decent work, prevent abuse and exploitation, and ensure that the roles and responsibilities within the recruitment and employment processes are clearly outlined, thereby enhancing supply chain transparency;
- (f) **Strengthen the enforcement of fair and ethical recruitment and decent work norms and policies by enhancing the abilities of labour inspectors and other authorities to better monitor recruiters, employers and service providers in all sectors, ensuring that international human rights and labour law is observed to prevent all forms of exploitation, slavery, servitude and forced, compulsory or child labour;**
- (g) Develop and strengthen **labour migration and fair and ethical recruitment processes** that allow migrants to change employers and modify the conditions or length of their stay with minimal administrative burden, while promoting greater opportunities for decent work and respect for international **human rights and labour law;**

- (h) Take measures that prohibit the confiscation or non-consensual retention of work contracts and travel or identity documents from migrants, in order to prevent abuse, all forms of exploitation, forced, compulsory and child labour, extortion and other situations of dependency, and to allow migrants to fully exercise their human rights;
- (i) **Provide migrant workers engaged in remunerated and contractual labour with the same labour rights and protections extended to all workers in the respective sector, such as the rights to just and favourable conditions of work, to equal pay for work of equal value, to freedom of peaceful assembly and association, and to the highest attainable standard of physical and mental health, including through wage protection mechanisms, social dialogue and membership in trade unions;**
- (j) Ensure that migrants working in the informal economy have safe access to effective reporting, complaint and redress mechanisms in cases of exploitation, abuse or violations of their rights in the workplace, in a manner that does not exacerbate vulnerabilities of migrants who denounce such incidents and allows them to participate in respective legal proceedings whether in the country of origin or the country of destination;
- (k) **Review relevant national labour laws, employment policies and programmes to ensure that they include considerations of the specific needs and contributions of women migrant workers, especially in domestic work and lower-skilled occupations, and adopt specific measures to prevent, report, address and provide effective remedy for all forms of exploitation and abuse, including sexual and gender-based violence, as a basis to promote gender-responsive labour mobility policies;**
- (l) **Develop and improve national policies and programmes relating to international labour mobility, including by taking into consideration relevant recommendations of the ILO Fair Recruitment Initiative and General Principles and Operational Guidelines for Fair Recruitment (ILO GPOGFR), UN Guiding Principles on Business and Human Rights (UN GPBHR), and IOM Ethical Recruitment Flagship Initiative (IOM IRIS).**

ILO TOOLS:

1. Guide to Private Employment Agencies : Regulation, Monitoring and Enforcement;
2. Fair Recruitment Initiative Portal: www.ilo.org/fairrecruitment ;
3. General Principles and Operational Guidelines for Fair Recruitment;
4. Global Study on Recruitment Fees and Related Costs;
5. Global Database on Recruitment Fees and Related Costs;
6. Establishing Fair Recruitment Processes: An ILO online training toolkit;
7. Reporting on forced labour and fair recruitment: An ILO toolkit for journalists;
8. Africa Regional Fair Recruitment Report: The recruitment of migrant workers to, within and from Africa Africa Regional Fair Recruitment Report: The recruitment of migrant workers to, within and from Africa (ilo.org);

IOM TOOLS:

9. IRIS: Ethical Recruitment Initiative;
10. IRIS Standard
11. Montreal Recommendations for Recruitment: A Road Map towards Better Regulation
12. IRIS Handbook for Governments on Ethical Recruitment and Migrant Worker Protection (forthcoming)
13. Corporate Responsibility in Eliminating Slavery and Trafficking.

ADDITIONAL RESOURCES

14. The Global Forum for Responsible Recruitment 2021 - YouTube;
15. Leadership Group for Responsible Recruitment
16. Videos: Forum for Responsible Recruitment - Highlight Videos – YouTube Global.