# LABOUR MIGRATION AND PRIVATE EMPLOYMENT AGENCIES IN THE REPUBLIC OF MOLDOVA

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**Abstract:** International labour migration from Moldova has dramatically scaled up during recent years and has become one of the most discussed and analyzed phenomena not only by media but also by scientists and policy makers in the country.

Intensification of labour migration was accompanied by the appearance of new institutions on the country labour market, namely Private Employment Agencies. Their activity of facilitating employment of migrant workers abroad have somewhat contributed to spreading legal forms of international labour migration in the country, to ensuring social security and a "decent work" for migrant workers and to minimizing undesirable risks related to illegal work migration. However, there are cases when their mission achievement is compromised by objective or subjective factors.

*Keywords*: international labour migration, private employment agencies, employment policies

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## 1. Introduction

International labour migration from Moldova has dramatically scaled up during recent years and has become one of the most discussed and analyzed phenomena not only by media but also by scientists and policy makers in the country.

Indeed, one should take into account that the economic decline of the early years of transition to the market economy, the mass layoff of workers as a result of the privatization process, the difficult process of setting up a

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labour market and the lack of employment opportunities, the lower quality of life of the population due to real income fall - all these, caused that a large part of the working age local population had to seek employment on labour markets abroad.

Intensification of labour migration was accompanied by the appearance of new institutions on the country labour market, namely **Private Employment Agencies**. Their activity of facilitating employment of migrant workers abroad have somewhat contributed to spreading legal forms of international labour migration in the country, to ensuring social security and a "decent work" for migrant workers and to minimizing undesirable risks related to illegal work migration. At the same time, some other private agencies appeared to provide services related to job placement on the country labour market too.

For nearly two decades an appropriate regulatory framework was designed and developed to regulate the activity of private employment agencies. In this context the ratification of ILO Convention no. 181 concerning "Private Employment Agencies" (ratified by Law no. 482-XV of 09.28.2001) can be mentioned.

At present, private employment agencies role in efficient labour migration management and country's employment policies push is undeniable. They may be the (institution) lever that contributes to the insurance of country labour market functionality. However, there are cases when their mission achievement is compromised by objective or subjective factors.

Highlighting institutional, legal, or organizational problems that private employment agencies from Moldova are currently facing, and finding conclusive solutions that would improve their work, is the subject of this article.

# 2. The profile of the international labour migration from Republic of Moldova

Since 1998 international labour migration has increased, so now about one third of the country's human potential is outside the country.

Moldova's official statistics estimates the extent of this phenomenon differently. Thus, the Labour Force Survey for 2011 showed only a number of about 316,900 people left abroad in search of work. Less formal data scale international labour migration between 500,000 and 1 million people.

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*Figure no. 1. Economically inactive persons aged 15 years and over, working or looking for a job abroad, 2001-2010, thousand persons* Source: National Bureau of Statistic, Labour Force Survey

In the analysis of the population who left the country to seek a job, it is relevant to mention its distribution by age, sex and educational level. Thus, in 2010 most people who left were aged 25-34 years - 33.9%. The number of people left is dominated by men - 63.6%. In the distribution by level of education, most people who went abroad in search of a job graduated either high-school - 25.5%, secondary vocational - 25.5% or secondary school - 24.5%. The explanation is both that these individuals find a job on Moldova's labour market harder and can be integrated on abroad labour markets easily, as they are usually involved in unskilled work with lesser investment in human capital. Moreover, departure of people seeking work from rural areas (in 2010, 70.9% out of the total) is more intense than that of people seeking employment in urban areas. It is mainly conditioned by the lack of employment opportunities in rural areas.

Concerning the current geography of international labour migration from Moldova, a specific vector of territorial mobility cannot be determined. People going abroad in search of work migrate in both Western and Eastern countries. A key factor facilitating and stimulating migration of

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labour to the east rather than west regions is the knowledge of language, psychology and traditions of the local people by the migrants and also the lack of a visa regime. However, Moldova's independence and liberalization of society opened borders to EU countries too. Access to opportunities of life in European countries led to diversification of labour migration geography, increasingly reorienting the vector of labour migration from Moldova from the east to the west. According to Labour Force Survey, from the 311,000 people who left the country to seek a job, even though most went to Russian Federation - about 191,900 people, an important part left to the second country of destination, Italy - 58 thousand people. Other popular countries for Moldovan citizens' labour migration are: Greece - about 2,500, Turkey – 9,000, Portugal – 5,100, Ukraine – 6,500 people.

International labour migration as an objective phenomenon has both positive and negative impacts on the development of human potential in Moldova.

In the context of a deep economic crisis, with minimum employment opportunities, low income and minor possibilities of overcoming this situation, international labour migration is a major decent life problem solution for most of the inhabitants of the republic. Money that enters the country as a result of external labour migration significantly raises the welfare of a great part of the local population. At the same time, it stimulates the consumption by increasing aggregate demand, providing favourable conditions for economic growth. Moreover, as these funds come into the country in hard currency, it balances the trade deficit to some extent too, thereby ensuring currency stability. National Bank data shows that in 2011 international labour migration brought to the country about 1.45 billion USD (www.bnm.md) as remittances, which is about one third of GDP. In other words, the steadily growing negative balance of the trade is balanced by the cash flows from the exported labour force.

Now, on the other hand, among the most notable negative phenomena in the international labour migration from Moldova today there is the migration of highly qualified specialists and expanding of illegal labour migration.

International migration of highly skilled labour force - known as the "brain drain" - clearly makes reference to a loss of intellectual capital.

Labour Force Survey showed that most people who migrated from Moldova are young and have secondary professional and high school

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education. Therefore they are at the beginning of their professional careers. These people, anticipating unsuccessful professional future in the country because of a lack of attractive job, go abroad for permanent or temporary period. Thus, the Labour Force Survey data indicate a level of youth unemployment (people aged 18-24 years) twice higher than the general one - 14.9% compared to 6.7% (www.statistica.md) in 2011. Those with better problem solving skills usually leave. In addition, a great part of young people complete higher education in Romania, Russia and other European countries and remain to live and work in these countries. Thus, Moldova is gradually being transformed into a supplier of skilled labour force for other countries in self detriment.

Another negative aspect of labour migration specific to the Republic of Moldova can be considered the disqualification of labour force. Usually, most people who emigrate in search of employment have rather high professional training, but are involved into seasonal unskilled works. These people activate most time at this kind of works and lose their qualification. Such cases can be found among teachers, doctors, engineers, scientists and other professionals that require large investments in their training. Ignorance of this phenomenon by decision makers can lead to an intellectual crisis, which will require a period of overcoming much longer than the economic recovery of the country. National Bureau of Statistics data shows that most migrants work in the construction industry -53.1%, in the households of foreign citizens - 19.6% and in services, on kinds of works which does not require large investments in human capital. It is quite relevant that in European countries migrant workers are particularly required to work in private households - 47.3%, while in Russian Federation (the country that absorbs most of the migrant workers) they can be found more in the construction field - 68.0% (National Bureau of Statistic, Labour Force Survey, 2008).

Another negative feature of international labour migration is the expanding of the illegal migration. Most people who go abroad in search of a job start usually illegally, through travel agencies, through intermediaries or through "networks" already established by their compatriots who emigrated from the country earlier. Once employed, these individuals integrate a dual labour market in the "host" countries, stimulating the development of the underground economy sector in these countries; sometimes the criminal one, usually related to human trafficking. Illegal

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migration is a problem not only for the "host" countries, but the Moldovan authorities too, which must protect the rights of citizens not only at home but also abroad.

Indeed, analyzing the distribution of migrant workers by how they proceeded to the departure, it appears that most of them have left in informal ways, through relatives and friends - 182,600 people, intermediaries - 40,100 people, or on their own - 73,100 people. To leave to the countries of the European Union migrant workers mostly solicited their relatives and friends - 40,300 persons and other intermediaries - 28,900 people. Most migrant workers in the Russian Federation went to work either by mediation of family and friends - 131, 400 persons or by themselves -53, 600 people. In this context, a notable fact is the modest number of migrant workers who left to work abroad through private employment agencies, providing a legal employment - 9.5 thousand people, of which only 4.7 thousands in the European Union and almost none in the Russian Federation. This indicates either a lack of confidence, attractiveness of these agencies for migrant workers, or the lack of information about the existence of agencies providing legal employment abroad, or else insufficient activity or experience of these agencies in terms of attracting potential new employers in "host" countries.

Given the above, we conclude that international labour migration persists and will persist, so it must be in the focus of current employment policies. In conditions where the labour market of Moldova cannot ensure, so far, real opportunities for employment, international labour migration intensity will continue to maintain at a high enough level. In this context the main task for policy makers is to increase the efficiency of labour migration, in order to minimize its negative effects and assure of "decent" jobs for migrant workers. Private employment agencies could play a primordial role in the achievement of this goal. They could do so by finding attractive employers, in terms of employment offered, and by negotiating labour contracts that would contain the necessary set of social guarantees appropriate to decent work. In this context private agencies are presented as indispensables institutions to promote employment policies and efficient management of migration from Moldova.

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### 3. Private employment agencies in Moldova

The first private employment agencies appeared with Moldova's independence declaration and early labour market formation. During this period, i.e. 1991-1992, although labour migration intensity was relatively modest and was directed primarily to the East, it gave rise to private institutions (few in number) that performed labour mediation services in the country and the former Soviet republics. At that time these private agencies were rather concerned with activities such as creating jobs databases, publishing announcements, distributing information to workers about the existence of job vacancies, and foreign employers or intermediaries for a fee.

In the same period were drawn the first laws that regulated private employment agencies activity, including: Law 418-XII of 19 December 1990 "About migration"; Law no. 845-XII of 03.01.92 "About entrepreneurship and enterprises"; Government Decision no. 717 from 24 December 1991 "About the approval of Regulations of Moldovan citizens' temporary employment abroad and foreign citizens' employment in Moldova; Government Decision no. 451 from June 29, 1992 "About the approval of Regulations of certificates and licenses issuance to legal and natural persons, acting as intermediaries in organizing Moldovan citizen's temporary employment abroad."

In the late 90, the geography of labour migration began to vary. At the same time, there was a growing number of migrant workers too, accompanied by a relative increase of the number of private agencies for employment. At that time, about 30 private agencies provided services for employment both outside the country and within. Their work was filled with new services such as personnel selection, paperwork and administrative preparation for travelling abroad, etc., especially for those who went to work in Greece or Israel. During this period, private agencies work regulation was provided by Government Decision no. 1077 of 20.11.1997 "About temporary hiring of migrant workers". This decision set the conditions for employment abroad activities license holders, as well as recommendations for the content of employment contract. The new government decision prompted new requirements for private agencies employment abroad activities; in particular, it determined the content of the individual work contract, focused primarily on the mechanism of social protection of migrant workers. However, undertaken measures have not brought the desired result. The number of people who leaved to work by

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private employment agencies was quite small compared with the total number of migrants, either because of the mistrust people had in these institutions, or because of the lack of adequate information, or else because of the excessive fees these agencies were asking from potential migrant workers. As a result, illegal migration increased, which generated human trafficking too, with a wide number of sacrifices and various forms of abuse. At the same time, there were cases when private agencies were involved in all sorts of abuse or human trafficking too, such as collection of money for paperwork and disappearance. Such cases involving so-called "private agencies with legal papers in order", it led to a negative image of all of them both in society and in the public authorities' eyes.

Reluctance and mistrust of public authorities to private employment agencies still remains nowadays and the major social role that they must play in the efficient management of migration and combating the illegal migration from Republic of Moldova is ignored.

On the other hand, illegal mediators, who operated without a license, created strong unfair competition for private agencies. They were obviously more advantaged in the employment market abroad, because they did not bear any costs neither for the coordination of cooperation contracts with foreign employers, nor for the coordination of projects of individual employment contracts or for social guarantees that they should be required to supply. In their work they bear no responsibility for people who have migrated with them. The penalty for violations of unlicensed provision of such services is rather mild, which stimulated the increase of such illegal intermediaries and therefore clandestine labour migration increased.

In the conditions when the intensity of international labour migration processes is quite large, the business of employing workers overseas is a profitable one and Moldovan levers of control of informal activities are ineffective, it is understandable that most providers of employment services abroad work illegally.

All the factors together, such as the difficulties in finding new employers or intermediaries in foreign countries, the lack of experience in the process of finding and attracting the new offers, the reluctance of population and public authorities regarding private agencies, the bureaucratic obstacles that appear in their relations with public authorities (NEA and the Chamber of Licensing), as well as in the documents perfection processes, especially in the visa deliverance, determined that the

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role of these agencies in the management of labour migration had to remain quite modest.

In 2008 was approved the Law "About labour migration" no. 180-XVI from 10.07.2008 that introduced new requirements in the regulation of private employment agencies work. The need for such law has been determined by the strong increase of labour migration flows, which required a more efficient and careful management to avoid the risks of illegal migration, human trafficking and insurance of social security for migrant workers. On the other hand, the launch of this law has created some difficulties in the private employment agencies. The new requirements related to obtaining licenses in the area caused a drastic reduction of the number of licenses issued.

The reduction of activism in providing employment services can be explained not only by the reluctance of public authorities to these institutions, but also by the low capacity of the existing private agencies to work in new conditions, corresponding to the provisions of ILO Convention no. 181, i.e. their ability to attract new employers with attractive job offers.

Currently according to the Licensing Chamber 85 private employment agencies operate in Moldova, license holders, 20 from them have a license to provide employment services in Moldova, 20 have the license for the provision of employment services in the U.S., 12 – respectively in Israel. There are agencies that have licenses to provide services in several countries.

Increased number of private employment agencies was determined, first, by the emergence of new offers from foreign employers or programs that presumed legal leaving to work abroad. These offers and programs ended up to condition leaving only through employment agencies with legal status. Primarily, these were contractual programs on seasonal migration of students from Moldova in the UK (program "Students Agricultural Work Scheme Programme"), USA ("Summer Work and Travel", or "Au Pair") etc. Through these programs in 2007 about 5,000 students left to do seasonal work legally. However, once these programs stopped, private employment agencies stopped their work too.

Most private agencies, provide only labour mediation services, including recruitment activities, create the database of job offers and job seekers, and in some cases, provide selection or professional training services (if necessary). Usually, selection is reduced to CV competition.

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The narrow range of employment services is determined by the fact that private agencies provide only low-skilled jobs. Only labour mediation services are provided. Even the advertising of the recruitment, necessary to attract a large number of workers, is almost ignored. Most job applicants find about agencies and their services from acquaintances, relatives or friends, who previously used agency services. In this situation we can't talk about creating a database of potential job applicants and about sustainability in agencies activity.

The narrow spectrum of services provided by private employment agencies is also determined by their inability to offer other types of employment services. This is determined, in turn, by inadequate training of agencies staff. Practically none of them has education in human resource management or psychology or education necessary to provide employment services.

Jobs offered by private employment agencies require a low-skilled labour. In most, they are related to elderly care in Israel, construction works in Russian Federation, agricultural works in Poland, hotel services industry or commerce, etc. A private agency is usually specialized in a particular field of activity and works with a single employer or foreign private agency. There are rare cases when a private agency provides jobs for more fields of activity and works with several employers. However, there are cases when agencies are concerned with job placement of people in Arts, such as dancers, singers (Japan), and some even employ medium level managers (in Moldova).

Therefore, we conclude that going to work abroad is intended only for unqualified people. If the higher qualified people want to work abroad, they are anyway employed in low skilled jobs. This, as mentioned above, can lead to serious consequences on the decline of existing human potential of the country.

In this context, a way of solving this problem would be to initiate collaboration between public authorities of Moldova and European Employment Service (EURES)<sup>1</sup>. Private agencies from Moldova, having

<sup>&</sup>lt;sup>1</sup> EURES - European Employment Services - is a cooperation network designed to facilitate the free movement of workers within the European Economic Area (EEA). The network is coordinated by European Comission and the Public Employment Services of the EEA Member States. EURES has a human network of more than 850 EURES advisers that are in daily contact with jobseeker and

access to EURES database may be able to employ highly skilled workers too. Temporary employment of highly qualified Moldovan workers in European countries through EURES would allow maintaining the human capital of the republic in order to benefit from it in more favorable economic circumstances.

But the cooperation of the Moldovan authorities with EURES faces some obstacles, as difficulties of getting visas, of concluding residence and work permits in "host" countries etc.

Another problem with employing migrant workers from Moldova in European countries is compliance to qualification standards. Diplomas and certificates of qualification from the Republic of Moldova are not recognized in European countries.

According to the legislation (Law no. 180-XVI, Article 17. (3). d), NEA is the institution obliged to check the quality of cooperation contracts negotiated by employers and private agencies as well as the individual work contracts, including provisions on social protection and safety (health insurance, the mechanism of compensation in case of accident, etc..). The Licensing Board issues business license only after a favourable opinion of the NEA.

Unusual cases related to the provisions of Art. 11 of ILO Convention no. 181, in the activity of private agencies were not observed. Employers consciously fulfil their responsibilities stipulated in the contracts of cooperation and individual employment contracts negotiated with the private agencies. Private agencies, in the extent of their abilities, monitor

employers across Europe (Austria, Belgium, Danemark, Finland, France, Grece, Iceland, Ireland, Italy, Luxemburg, Nederland, Norway, Portugal, Spain, Sweden and Great Britain). The purpose of EURES is to provide information, advice and recruitment/placement (job-matching) services for the benefit of workers and employers as well as any citizen wishing to benefit from the principle of the free movement of persons. In European cross-border regions, EURES has an important role to play in providing information about and helping to solve all sorts of problems related to cross-border commuting that workers and employers may experience, such as working and living conditions, practical, legal and administrative issues and advise on how to find jobs and access NEA in countries other than EEA Member States. EURES has two databases – the first contains vacancies for EEA citizens, the second contains information regarding living and working conditions in EEA member states. EURES offers services to ensure the comparison of EEA workers qualifications. (www.eures.europa.eu)

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how the terms of individual employment contracts are respected. Clauses about accident compensations stipulated in the contract work are also respected.

However, it should be noted that, in reality, the responsibility for the social protection of the migrant workers is not held by private or state agencies, but by the foreign employers. These provisions are generally reflected in the cooperation agreement negotiated by the foreign employer with private employment agencies, as well as in individual employment contracts signed by migrant workers. In this particular context, we cannot say there is a real negotiation between the agency and foreign employers. Potential employers present their offers that private agencies accept without questioning. Thus, the responsibility for social protection is not assumed by agencies; they act as plain intermediaries in this case. Private agencies explain this behaviour by the fact they cannot influence existing labour legislation in the host country.

Private agencies efficient work depends mostly on active dialogue between them and their working partners, including social partners from labour market. A constructive dialogue between private agencies and public authorities would highlight several aspects of the legal framework, which with the bad economic situation at the moment, creates some obstacles in agencies work. A dialogue between private agencies and social partners and civil society would overcome many problems currently faced by private agencies in particular, those of image or rights of migrant workers.

However, such a dialogue barely exists. Private agencies were aware of this deficiency. In this context, recently (October 2011) a group of private agencies have established "Employers' Association of Private Employment agencies" which, although not yet stated as a promoter of the private agencies interests in dialogue with others, make great efforts towards this objective. However, all - the lack of experience, the small number of members of this association (14 agents) compared to the total number of private agencies in the country and the public authorities' reluctant attitude towards private agencies - somehow, don't allow it to become an institution that actually promotes and ensures effective management of labour migration.

In general, the role of trade unions in protecting the rights of migrant workers is minimal. Migrant workers cannot join together into a trade union and cannot ever join a trade union in the country they working. Such

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membership would require a cooperation agreement between Moldovan trade unions and trade unions in destination countries. Migrant workers can rather ask help and actually get help from the Diasporas created in "host" countries.

One of the most painful problems faced by private employment agencies is the prohibition of levying taxes and fees from migrant workers for provided mediation services. Article 7 of ILO Convention no. 181 reflected in the Law no. 180-XVI from 10.07.2008 Article 17 prohibits any kind of tax collection.

Prohibition of tax collection by private employment agencies from migrant workers is a provision related to the protection of migrant workers rights. The private employment agencies activity should be based on fees charged by employers for their services. Mediation services are provided primarily to employers.

This legislation, which came into force on 01.01.2009, paralyzed the activity of many private employment agencies that worked with employers refusing to pay fees for the services provided by agencies.

Most active private agencies have complied with the law and charge no fees. However, research has also shown that private agencies fees charge for services provided to migrant workers continue to occur, both through legal channels and illegally. Legal ways of collecting taxes are to embody them in fees for some paperwork paid services or fees for travel tickets purchase, etc. Perception of legal fees may also occur indirectly, by obtaining commissions from the partner private agencies, from countries that have not ratified the Convention no. 181 (such as Israel or U.S.A.), because law does not prohibit them to receive fees from the migrant workers. This is, somehow, a way of sharing fees collected from migrant workers between the partner agencies from destination countries and private agencies from Moldova. It should also be noted that most active private employment agencies work with partner agencies from Israel and U.S.A.

One of the most disturbing phenomena accompanying labour migration is human trafficking. In the late 90's when the illegal labour migration intensified, human trafficking became a fairly widespread phenomenon that directly affected the fate of people who decided to emigrate in search of work. It was in that period when civil society, public authorities, society in general has reacted promptly to combat this negative phenomenon. Thus, on April 25, 2002 the Direction of combating the

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human trafficking was created in the frame of General Direction for Combating the Organized Crime, as an operative body for investigation and prosecution, which later became the "Centre for Combating people Trafficking ".

About the involvement of private employment agencies in human trafficking, there were no cases observed of functional private agencies involvement in human trafficking. On the contrary, these agencies are interested in fighting with this phenomenon as it is related to some major harm to their image. In this context, private agencies, through their employers' association, make a great effort to "legalize" the Moldovan labour migration and stop human trafficking, and avoid other negative consequences of illegal labour migration.

### 4. Recommendations

• To undertake some vigorous actions from the private employment agencies and their partners to inform potential migrant workers about their employment opportunities through these agencies and about the risks of illegal migration. To undertake palpable actions related to the rehabilitation image of private employment agencies and to raise their status as labour market institutions.

• To assert private agencies at the employment services market by mainly increasing their ability to attract potential attractive employers from abroad and from the country. Organize trainings implicating social partners (NEA, "Employers' Association of private employment agencies", International organizations, etc.) to improve their business practices in the new economic conditions.

• To carry out concrete measures for improvement of the legal framework related to private employment agencies for:

- Modify private agencies status, which would allow diversification of their services so that they can be gradually transformed into "temporary employment agencies". This would allow Moldovan agencies to get activities and experience similar to agencies in European countries, which will lead to the mediation of highly skilled jobs and easier penetration into European labour markets;
- Change the licensing mechanism, so that an agency may provide employment services, under the same license, both abroad and at

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home. Thus, the private agency will be involved not only in employment of workers overseas, but also in the process of reintegration of migrant workers in the labour market of the country;

- Develop a more rigorous mechanism to withdraw licenses of private agencies that do not develop activities related to employment for one year. This change will lead to sustainable motivation in the activity of private employment agencies;
- Harsher penalties for natural or juristic persons performing unlicensed employment;

• To activate public authorities to conclude bilateral agreements with European countries on labour migration and visa liberalization. This will lead to help along attraction of foreign employers from European countries by private agencies, reduce the cost of documents preparation for departure to work abroad, and therefore increase activism of private agencies;

• To adjust training in the country to European standards, make efforts regarding the recognition of Moldovan diplomas and certificates of qualification in European countries. This will allow public authorities and private agencies to initiate collabouration with the European Employment Service (EURES);

• Improve the monitoring of the activities by the competent authorities by establishing a mechanism that involves the creation of joint monitoring committee made by institutions responsible for monitoring the compliance with legislation;

• To develop and implement temporary mechanism for levying fixed fees for private agencies from migrant workers, for services other than mediation, which will not be in contradiction with the ILO Convention no. 181. This would lead to normalization of activity of private employment agencies that face now major problems;

• To develop social dialogue between private employment agencies and their partners (NEA, employers association, trade unions, civil society, etc..); closer collaboration between private agencies and local employment agencies on various issues including employment; strengthening employers' association of private employment agencies position with a view to promote the interests of private agencies. Activate the role of trade unions in promoting labour migration policies through collaborative agreements with trade unions in other countries, facilitate the process of association of migrant workers with a view to protect their rights.

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