

The Private Employment Agencies Convention, 1997 (No. 181)




C181

- ▶ What it is
- ▶ How it can propel a human-centred jobs recovery
- ▶ And why every country should ratify it

As the world recovers from the socio-economic devastation wrought by the COVID-19 pandemic, private employment agencies are playing a key role in strengthening national labour markets. Their experience in matching employers and jobseekers with decent work opportunities in fluctuating labour markets is critical to ensure resilient economies in these rapidly changing times.

Private employment agencies can offer critical support to employers and workers in adapting to economic crises and changes, assisting them in redeploying resources and navigating job transitions. They provide essential support to facilitate access to the labour market, especially for jobseekers in most disadvantaged situations, including people with disabilities, young jobseekers, migrant, and older workers.



By providing job search skills, career guidance and training, and by offering opportunities in a range of work environments, private employment agencies can significantly enhance workers' employability.

These agencies can play a vital role in ensuring a human-centred, job-rich recovery from the COVID-19 pandemic – one that is focused on creation of decent jobs. This in turn requires effective and transparent regulation of private employment agencies to protect workers against unethical or abusive practices, and to protect employers against unfair competition. A framework for effective regulation is provided by the ILO's Private Employment Agencies Convention, 1997 (No. 181).

To support optimally functioning labour markets, and to help prevent abusive and exploitative practices in labour recruiting, the ILO encourages member States to ratify and implement Convention No. 181 as the most up-to-date instrument in this area.



What is Convention No. 181?

- ▶ An international labour standard developed by ILO's constituents (governments, employers and workers) and adopted in 1997 at the International Labour Conference.
- ▶ Establishes a comprehensive framework for the registration, licensing, and effective regulation of private employment agencies and the protection of workers that use their services.
- ▶ Requires ratifying member States to take measures to protect national and migrant workers from abuses and protects legitimate agencies from unfair competition by rogue operators.
- ▶ Recognizes the sector's important contribution in matching labour demand and supply.
- ▶ Applies to all private employment agencies, economic sectors, and categories of workers, with the exception of seafarers.

As of 2021:

35 countries have ratified C181



Convention No. 181:

- ▶ Prohibits private employment agencies from charging recruitment fees or costs to workers, except in specified circumstances.
- ▶ Protects workers who use these agencies against discrimination in terms of minimum wages, working time and conditions, social security benefits, training, and access to occupational safety and health.
- ▶ Sets forth specific protections for migrant workers, including those engaged in domestic work, temporary work in the construction sector and seasonal agricultural work.
- ▶ Helps protect employers from unfair competition from unauthorized labour intermediaries.

Why ratify Convention No. 181?

- ▶ **To support the goal of achieving full, productive and freely chosen employment and decent work.**

Ratifying C181 helps ensure a fairer and more transparent labour market that affords workers opportunities to realize their full potential – while helping employers find workers with the skills and talent they need to grow, succeed, and remain competitive.

- ▶ **To create more efficient intermediation.**

C181 supports better matching of labour supply and demand. It enhances cooperation between public and private employment service providers in areas such as information-sharing, basic job matching services, and active support. By ratifying and implementing C181, States can encourage providers to join in delivering publicly funded employment services to specific labour market groups, particularly those facing special challenges.

C181 protects workers' fundamental rights, including freedom of association, collective bargaining, and non-discrimination – and prohibits child labour.

In the **Netherlands**, many sectors stagnated due to COVID-19 containment measures, while others faced an immediate need to add staff who had the right skills. A bipartite fund was set up to help agency workers made redundant by the pandemic to reskill and find new opportunities in sectors in demand. The fund was created by a coalition of trade unions and associations representing private employment services, in partnership with the Public Employment Service, the City of Amsterdam, and Schiphol Airport. The Netherlands is among the 35 countries that have ratified Convention No. 181.

Anticipating changing needs

When the ILO adopted C181 a quarter-century ago, some countries felt it had little relevance. Since then, the situation has changed in many countries, with the private recruitment industry increasing its market share amid diversifying labour markets and greater emphasis on flexibility and job security. Clearly, with this growth in private employment agencies, there's no time like the present for member States to ratify the convention as a means of ensuring that workers and employers have the basic protections they need.

In 2019, more than 61 million people in 40 countries found employment through private employment agencies – an increase of seven per cent over the previous year.*

*WEC, *Economic Report 2021*

Taking note of these developments, many countries that have not yet ratified C181 have already adjusted their laws and practice in this area. Accordingly, the path to ratification and implementation may be a relatively simple one, requiring only minor adjustments and leading other States to follow suit.

The evolution of C181

Convention No. 181 was developed after it became clear that the role of private employment agencies needed to be recognized, in addition to the need for protecting workers against abuses and unfair practices, on which earlier instruments had focused. C181 revises the **Fee-Charging Employment Agencies Convention (No. 96)**, that was adopted in 1949 and an even earlier – now outdated – instrument, the **Fee-Charging Employment Agencies Convention, 1933 (No. 34)**.



A win across the board

As with all ILO international labour standards, C181 was drawn up by representatives of governments, employers and workers, all of whom stand to benefit from ratification and implementation of the convention.

For governments

C181 helps governments better define and supervise private employment agencies so that they can play a positive role in national economic development. Implementation of the convention strengthens labour markets by:

- ▶ Balancing flexibility and job security.
- ▶ Guaranteeing fundamental rights at work.
- ▶ Promoting greater transparency and fair labour practices.
- ▶ Ensuring quality of service standards and promoting partnerships with public employment services.

Depending on the country and subject to consensus by the social partners, C181 can help simplify regulation of private employment agencies where it is overly complex, ease excessively tight restrictions on their operations, or provide a solid basis for new regulations in countries where regulation is ineffective or non-existent.

For workers and jobseekers

C181 ensures that workers who are placed or hired out by private employment agencies have access to freely chosen job opportunities, without discrimination, and that their fundamental rights at work, including the right to join or form trade unions and the right to collective bargaining, are protected. It prohibits charging recruitment fees or costs to workers and sets forth minimum levels of social protection such as paid sick leave.

For employers

C181 provides clear benefits to **employers** – including private employment agencies and companies that use them to hire workers. It protects legitimate private employment agencies from unfair competition by unscrupulous providers through applying quality standards in the industry and promoting recognition of the constructive role these agencies play in the labour market. C181 also helps clarify the rights and duties of workers and the agencies that employ them and hire them out to a user company. The convention also provides flexibility, enabling enterprises that use these agencies to rapidly acquire staff – national or migrant workers – in response to labour market fluctuations.

C181 is an important tool to help achieve the **UN Sustainable Development Goals** centred on ending forced labour and human trafficking, protecting labour rights and facilitating responsible migration. It also supports the **ILO's Decent Work Agenda**.



How to make ratification happen

Employers' and workers' organizations have an essential role to play in raising awareness with national parliaments or other competent authorities of the type of action that may be taken to ratify the C181. Steps towards ratification may include:

- ▶ Initiatives by the Government, especially after provision of ILO assistance in drafting legislation or regulation.
- ▶ Advocacy campaigns by employers' and workers' organizations, and possibly by allied groups.
- ▶ Reviews by national tripartite labour advisory bodies of unratified conventions.
- ▶ Persuasion and facilitation by concerned parties.
- ▶ Addressing gaps in legal protection of agency workers by member States.

A number of countries have applied some of the provisions of C181 in their national laws and practices.

Viet Nam adopted a [Law on Contract-Based Vietnamese Overseas Workers](#) in 2020. The law prohibits human trafficking, exploitation, forced labour or advertising promoting illegal departures from the country. It sets the stage for prohibiting recruitment agencies from charging fees to migrant workers and allowing migrant workers to unilaterally terminate contracts in cases of threats, sexual harassment, maltreatment, or forced labour.

[Recruitment Advisor](#) is a global platform that was developed collaboratively by governments, migrant workers' associations and trade unions. Currently operating in **Bahrain, Hong Kong (China), Indonesia, Kenya, Nepal, the Philippines and Sri Lanka**, it provides reviews of recruitment agencies and other information to workers looking for jobs abroad. It also raises workers' awareness of their right to be fairly recruited, in line with the ILO's General Principles and Operational Guidelines for Fair Recruitment.



How the ILO can help

To promote ratification of C181, the ILO:

- ▶ Provides support on how to regulate private employment agencies.
- ▶ Offers technical assistance to help implement the convention, once ratified.
- ▶ Facilitates exchanges of good practice and legislation among Member States.
- ▶ Promotes social dialogue to facilitate the ratification process.

Support ratification in your country!

The ILO is calling for wider ratification and implementation of Convention No. 181 around the world, and invites ILO constituents (governments and employers' and workers' organizations) and other relevant stakeholders to join this global campaign.

Governments and the social partners should consider whether their country already measures up to benchmarks indicated in C181. If it does, ratification can be a rapid and simple process. If it does not, it may well be the time to take steps towards ratification to support a better recovery for all. Meanwhile, governments that have already ratified C181 are required to adopt and implement legislation and policy measures to enable effective regulation of private employment agencies.

Here's how to get involved....

- ▶ Find out if your **country has already ratified C181**
- ▶ Guidance on **Ratification** and **FAQs**

For assistance with ratification, contact: normes@ilo.org

