

# Assessment of the recruitment framework of Private Employment Agencies



# Assessment of the recruitment framework of Private Employment Agencies

---

**Report**

**February 2016**

Prepared for the International Organization for Migration (IOM)  
by Dr Zef Preci, Consultant

This publication has been produced by the International Organization for Migration (IOM), under the project “The promotion of decent employment opportunities and the protection of migrant workers in Albania” in the framework of the Programme of Cooperation 2012–2016, with the financial support provided by the Government of Sweden through the One UN Coherence Fund.

The opinions and views expressed in this publication do not necessarily represent the views of the International Organization for Migration, UN in Albania or the Government of Sweden.

IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental body, IOM acts with its partners in the international community to: assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.

The present report has been issued without formal editing from IOM.

Publisher: International Organization for Migration

Mission in Albania

Rruga “Ibrahim Rugova”, Nd. 42, H. 12, Apt. 4 Tirana, Albania

Tel: +355 42257836

Fax: +355 4225 7835

E-mail: [infotirana@iom.int](mailto:infotirana@iom.int)

Internet: [www.albania.iom.int](http://www.albania.iom.int)

© 2016 International Organization for Migration (IOM)

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise without the prior written permission of the publisher.

# Contents

Introductory remarks.....	6
Main definitions.....	7
Summary.....	8
<b>1. Overview of the Private Employment Agencies market.....</b>	<b>11</b>
1.1 Overview of Private Employment Agencies in the world.....	11
1.2 Private Employment Agencies in Albania.....	12
1.3 The survey implementation.....	15
1.3.1 Methodology.....	15
1.3.2 Limitations of the survey.....	16
1.4 Benchmark development for PEAs functioning.....	17
1.4.1 Overview on Ethical Recruitment of PEAs.....	17
1.4.2 Best practices of PEAs operational framework.....	19
<b>2. Private Employment Agencies in Albania: Regulatory and institutional framework.....</b>	<b>23</b>
2.1 Compliance of the Albanian legislation with the International ILO Conventions.....	24
2.2 The progress of the Albanian legislation in the framework of EU integration.....	25
2.3 A general overview of the legal framework for PEAs licensing and functioning.....	25
2.4 Review of the legal framework of migrant employment in Albania.....	26
2.5 Institutional framework of migrant employment in Albania.....	28
2.5.1 The role of public institution in migrants employment.....	29
2.6 Ethical recruitment in Public and Private Employment Agencies.....	32
<b>3. Private Employment Agencies market assessment.....</b>	<b>34</b>
3.1 Sector overview.....	34
3.2 Assessment of PEAs practices.....	37
3.2.1 Questions on market access.....	37
3.2.2 Employment mediation service.....	39
3.2.3 Gender and PEAs.....	42
3.2.4 PEAs licensing and reporting.....	42
3.3 Assessment of experiences of emigrants employed in the country and abroad.....	43
3.4 Evaluation of the institutional framework of the sector.....	44
3.5 Comparison of the current state of PEAs with national and international legislation.....	47
3.6 The problems identified during the workshop organized by IOM.....	52
<b>4. Conclusions and recommendations.....</b>	<b>53</b>
4.1 Conclusions.....	53
4.2 Recommendations.....	55
References.....	58
Annexes The relevant legislative framework.....	62

## List of tables

Table 1. Sample of the survey .....	16
Table 2. Key indicators related to companies.....	17
Table 3. IRIS Code of Conduct principles .....	18
Table 4. Ethical recruitment issues .....	18
Table 5. Overview of the regulation framework in countries of best practices .....	21
Table 6. Institutional framework and respective responsibilities .....	30
Table 7. Companies operating in the market (in cumulative, by years of their creation) .....	36
Table 8. Business size by PEAs type of ownership .....	37
Table 9. Categorization by geographic area.....	37
Table 10. Tools used by the Private Employment Agencies to attract candidates .....	38
Table 11. Actions taken in case of complaints / problems .....	41
Table 12. Trainings offered to Albanians employed abroad .....	43
Table 13. International Labour Standards and current state .....	57

## List of figures

Figure 1. Unemployment rate in Albania (2007–2014).....	14
Figure 2. Stakeholder responsibilities in migrant worker protection.....	28
Figure 3. Licences issued over the years .....	34
Figure 4. Current situation of labour market mediation (October 2015) .....	35
Figure 5. The sample of the study conducted in the framework of the Private. Employment Agencies...	36

# Abbreviations

DCM	Decision of Council of Ministers
ILO	International Labour Organization
IOM	International Organization for Migration
IRIS	International Recruitment Integrity System
MIA	Ministry of Internal Affairs
MSWY	Ministry of Social Welfare and Youth
NES	National Employment Service
NLC	National Licensing Centre
NRC	National Registration Centre
PEA	Private Employment Agency
RDBM	Regional Directorate for Borders and Migration
SLI	State Labour Inspectorate

## Introductory remarks

This study is undertaken to evaluate the compliance of the regulatory framework of Private Employment Agencies in Albania with international standards vis-à-vis related with migrant workers recruitment. Moreover, detailed analysis of the sector will serve to develop recommendations on the ethical recruitment standards for Albanian public and private employment agencies.

The project aims to contribute to the development of an effective management system of employment mediation, which will promote ethical recruitment, decent work and protect migrant workers. The assessment took into consideration Albanian migrant workers seeking for employment abroad, present candidates and past migrant workers, and foreign migrant workers who have found employment opportunities in Albania. Special focus is given to the gender factor and developed recommendations aim at facilitating the Government of Albania in the development of gender-sensitive policies for regulating the status of migrant workers by ensuring their protection.

The methodology used for this study is primary and the secondary research. Secondary research is conducted by literature review and primary research (quality) is realized through in-depth interviews conducted with Private Employment Agencies (PEAs), migrant workers employed through them and respective institutions governing PEAs activity in Albania. In addition, a comprehensive analysis of PEAs sector development in Albania is presented and recommendations are proposed in order to improve the current situation by referring to the “best practices” of other countries.

This study is part of a wider project of the International Organization for Migration (IOM) known as “The promotion of decent employment opportunities and the protection of migrant workers in Albania”. The aforementioned project is funded by the Government of Sweden through the One UN Coherence Fund and implemented by IOM Tirana (Albania) in partnership with major actors of the Government of Albania.

# Main definitions

## **International migrant workers:**

Include workers migrating for short-term or seasonal work as well as for permanent settlement. These workers may migrate: under government-sponsored programmes under private recruitment schemes (e.g., involving private recruitment agencies) on their own account in search for employment.<sup>1</sup>

## **Migrant workers:**

People who leave home in order to find work outside of their hometown or home country. Persons who move for work in their own country are “domestic” or “internal” migrant workers. Persons who move for work to another country are commonly called “foreign” or “international” migrant workers.<sup>2</sup>

## **Private employment agency:**

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 there from; (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 job-seeking, 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.<sup>3</sup>

## **Recruitment:**

1. Employment of a person in one territory on behalf of an employer in another territory;
2. Giving the possibility to a person of a given country to be employed in another country.<sup>4</sup>

1 International Labour Organization (ILO), International Labour Standards on Migrant Workers’ Rights, 2007, [www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_146244.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_146244.pdf).

2 International Labour Organization (ILO), International Labour Standards on Migrant Workers’ Rights, 2007, [www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_146244.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_146244.pdf).

3 International Labour Organization (ILO), Convention No. 181, Article 1, [www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55\\_TYPE,P55\\_LANG,P55\\_DOCUMENT,P55\\_NODE:CON,en,C181,%2FDocument](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:CON,en,C181,%2FDocument).

4 International Labour Organization (ILO), Migration for Employment Recommendation, 1939 (No. 61), [www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312399:No](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312399:No).



## Summary

Albania has ratified Convention No. 181 of the International Labour Organization (ILO) on “Private Employment Agencies” in 1999 and since then, according to the National Licensing Centre (NLC), 38 licenses are issued for the operation of Private Employment Agencies (PEAs). Ten of these licenses have been given to natural persons, who currently either do not have the license for revocation reasons, or have closed the business / company, or they are attached to another company as owners or otherwise. Through the use of official data and other information resources for the purposes of this study, a total of 68 employment agencies were identified. They had been active during the period 2000–2015. In 2015 it was found that there are 47 agencies active in the market, of which only 3/5 of them (28 agencies) were licensed by the NLC and the rest (19 agencies) performed their activity in the market without a license. After detailed verification of these agencies’ activities, in October 2015, from 47 subjects taken into consideration, 5 of them have abandoned the market mediation function and have changed activity; 7 PEAs, even though licensed, are no longer part of the operating market; and 4 PEAs have declared that they no longer perform any activity and their status is passive. Thus, only 31 Private Employment Agencies are part of the operating market.

Part of this study is identifying and taking account of the “best practices” of PEAs operation from countries that have a regulated and consolidated market. Among the criteria that include these practices can be mentioned: *application of a symbolic registration fee* in the licensing process and also mitigating practices for those agencies that have more experience in the market; *establishment of financial capacity* as a criterion for applying for a license as it ensures that not everyone can enter the employment mediation market but at the same time serves as a guarantee for candidates in cases of injury at work; *personal qualifications* required only for administrator; allowance of performing other activities in parallel with mediation in employment only if the latter are related to employment activity; *prohibition license transferring*; restriction of *applying tariffs on job-seekers*; drafting of contracts that provide for equal treatment for all job-seekers and fine sanctions for violations.

The analysis developed for the sector of Private Employment Agencies gives special importance to the market entry process of these agencies and the mediation service provided by them. The mostly discussed features the employment-related mediation service include recruitment / selection, possible preparation before the departure of individuals to their place of employment, contract conclusion with the PEA and tracking the experience of employees abroad or in the country by the relevant employment agency. Further, the focus of analysis is the reporting over the PEAs activity before the relevant institutions.

To start with we have analysed some of the analytical findings observed in this study. *The number of PEAs in Albania* in proportion to the size of the country is indeed limited compared to European countries, and almost all of them operate in Tirana. Moreover, only 3/5 of PEAs (59.5%) operating in Albania in 2015 are licensed by the NLC, which is a sign of the sector regulation failure. *Regarding PEAs type of ownership*, the most common type – 50 per cent of them – are limited companies. Given that, these businesses generally do not exceed the level of a small company. With regard to the extension of their activity, almost 1/3 of PEAs (64.5%) operate internationally by employing Albanian workers abroad or foreign employees in Albania. About 1/10 (10%) of agencies that operate in the market provide mediation services as their second activity to third parties, and act only within the country. Concerning the means of

communication used by PEAs in Albania, *it results that the most common means to attract candidates are personal contacts or recommendations (92.3%) and advertisements (76.9%)*. Meanwhile, all PEAs do not use other private employment agencies as a source for potential candidates. In terms of institutional interaction with the public sector, it results that *agreements between PEAs and state labour offices are almost completely absent* (only one agency has such agreement). However, about 2/5 of them (38.5%) say that they “consider the National Employment Service, as a tool to attract candidates.” From the analysis of the institutional organization level of PEAs themselves, it results that *still Albania lacks an association of PEAs and therefore the horizontal cooperation between them is almost non-existent*. With respect to the application of financial fees on job-seekers, about a quarter of PEAs (23.1%) admit that they charge mediation fees on job-seekers, which is in conflict with the national law and the ILO Convention No. 181. Concerning the legal regulation of PEAs relations with the job-seekers, it turns out that all agencies state that they use the same type of contract for each individual, regardless of gender, age and ethnicity, while more than two thirds of them (71.4%) say that “they follow-up the work and the conditions of Albanian emigrants working abroad”, which is hard to believe and to be confirmed. In cases of abuse or discrimination of employees abroad, two thirds of agencies (66.7%) state that they “will provide repatriation support and involve the authorities of the country where the employee is located”. Even though more than half of PEAs licensed in Albania (54.5%) operate internationally, they admit that “are not required to report to any government institution”, which is inconsistent with the current law. Moreover, they claim that they can make their job offers public, without having them approved by any government institution.

Along with the quantitative findings, some qualitative conclusions have been an important part of the study. Companies licensed in Albania to provide mediation for employment opportunities in the country and abroad, are not fully in accordance with the law concerning their activity. In Albania, it has been observed a limited involvement of civil society organizations focused on protecting the rights of migrant workers in Albania and Albanians employed abroad. At the same time, it is noticed that business associations or organizations that can help for a better and contemporary standard-based organization of PEAs, as representatives of this type of business or activity, are missing or are in their beginnings. The Albanian primary legislation is adopted in accordance with the ILO Conventions, but the secondary legislation is failing to define the necessary specifications. Generally, public institutions do not conduct special inspections or physical checks on the activity performed by these businesses. The conclusion drawn from the data is that cooperation with and relationship between PEAs and public institutions linked to the sector is weak. Several attempts have been made, but have not yet secured a stable cooperation. NLC, via its website, is the only source in which the licensed PEAs or persons are listed, while other official information from the public institutions on the activities and the current status of these agencies is not accessible.

Taking into consideration the aforementioned findings, there have been suggested some recommendations for the progress of the Private Employment Agencies sector. Initially, there have been made some suggestions for the drafting of institutional policymaking, monitoring and legal framework. Albania should ratify the latest ILO Conventions. The secondary legislation urges for immediate amendments in order to clarify the operational framework of PEAs. Given that Albania is among the developing markets, it would be advisable for it to be part of countries which are governed by legislation. In addition, in order to avoid contracts problems, it is suggested being build a standard model that can come to help PEAs. Since Albania provides one license for both kinds of PEAs, the ones operating nationally and the ones internationally, it is difficult to make a distinction among them. For this reason it is suggested the operating of PEAs under two types of licenses in order to have a better inspection of the sector as well. It is fully needed the strengthening of the reporting and monitoring processes to ensure full respect of the regulation. Institutional authorities, such as the Ministry of Social Welfare and Youth (MSWY) and State Labour Inspectorate (SLI), should provide internet spaces and webpage to inform the job-seekers. Moreover, the National Employment Service

(NES) must make an agreement with PEAs in order to have in its official website an interface with all PEAs sites. Given that, social networks and media must be used as tools for the further and increasing awareness of migrant workers, in order for them to be able to create trust and use the proper channels to be informed as a job-seeker. In order to avoid the suspicious activity and improper practices of PEAs, MSWY or SLI should create an ad-hoc team to support, train, but in the same time inspect and supervise the activity of PEAs. Another issue of concern is the fact that many agencies are charging application fees to their candidates and sanctions must be taken against them. As all PEAs admit that they are not required to report to any government institutions regarding their offers and activities, the government institutions should immediately focus on regulating the work of agencies, making it more secure and reliable for the labour force and prospective candidates. To make easier the identification of those PEAs operating in accordance with the law it can also be established a rating system based on all the principles outlined in International Recruitment Integrity System (IRIS) Code of Conduct, in order to guide the job-seekers and employers towards the more reliable PEAs.

Regarding gender aspect, there have been suggested some recommendations for the action plan. Public institutions should undertake information campaigns regarding the risk of female employment abroad in order to be guaranteed proper care during employment. It would be advisable, increased surveillance on those PEAs that intermediate women employment abroad and increased monitoring of their contracts, in order to eliminate as much as possible the risks related to them. Another important aspect would be the improvement of inspection to ensure that PEAs are managing the employment mediation in a balanced way, by providing women equal opportunities with men. For similar job positions, women should enjoy same conditions as men, including the working hours and equal wage.

The private sector along with the public sector needs improvement. PEAs should strengthen their cooperation with training centres in order to find or prepare adequate candidates for their job vacancies. Private Employment Agencies should seek for the creation of a stronger connection between them and public institutions, especially the NES, aiming to regulate the market. Current and future PEAs should consider their qualifications and capabilities in order to fulfil requirements for licenses and legal services. Private Employment Agencies should work on providing a more ethical and legislation-compliance recruitment. The agencies might make efforts to create a business association representing them all, becoming a stronger voice with the aim to improve main practices and contributing to policymaking.

# 1. Overview of the Private Employment Agencies market

## 1.1. Overview of Private Employment Agencies in the world

A Private Employment Agency (PEA), as per the Albanian legislation,<sup>5</sup> is any natural or legal person, or company, independent from the public authorities, involved directly or indirectly in the recruitment, selection, placement and in some cases in the management of employees, whether qualified or not, for the Agency itself or third party. While in the article 1 of the International Labour Organization Convention No. 181, Private Employment Agencies are defined as persons or companies, independent from public authorities, which provide one or more of the following services: services for matching offers and applications for employment, employment services to make the workers available to a third party, other services related to the job seeking process, such as the provision of information,<sup>6</sup> etc. It is clearly seen that *the difference in the two definitions is small and the definition in the Albanian law is considered based on the international one.*

From the study of the overall practices in the world, there are four market types where PEAs operate.

First, there have been identified the **market driven countries**, such as United Kingdom, Australia and New Zealand. These countries do not require licensing for these agencies, initial capital or certain professional qualifications. Moreover, the Private Employment Agencies are not monitored by the government, but the sector is self-controlled through a code of conduct.

Second, the **social dialogue-based markets**, such as Germany, the Netherlands, Switzerland, Austria, Denmark, Sweden, Norway, Finland and Japan. These Western Europe countries require licensing for the opening of PEAs and initial capital, but no other professional qualification, while the government monitors and reports over them. On the contrary, in the Nordic countries, PEAs are regulated by collective agreements and neither licensing nor an initial capital is required.

Third, the **legislation driven countries**, such as Belgium, France, Luxembourg, Italy, Greece, Spain and Portugal where Private Employment Agencies are highly monitored by the government. In Western European countries it is required licensing and other professional qualifications, but not initial capital. On the contrary, in the Mediterranean countries initial capital is required, but no licensing or certain professional qualifications.

**Last, emerging markets** include countries such as Eastern Europe and Latin America countries, India and China where PEAs are supervised by the government, but no licensing, initial capital or other professional qualifications is required.<sup>7</sup>

5 As specified in the Decision No. 708, dated on 16.10.2003, "On the licensing and functioning of Private Employment Agencies", [www.duapune.com/blog/wp-content/uploads/Legjislacioni/Per\\_menyre\\_e\\_funksionimit\\_te\\_agjencive\\_private\\_te\\_punesimit.pdf](http://www.duapune.com/blog/wp-content/uploads/Legjislacioni/Per_menyre_e_funksionimit_te_agjencive_private_te_punesimit.pdf).

6 International Labor Organization (2000), [www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312326:No](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312326:No).

7 I Z A Research Report No. 57 (2013), The Role and Activities of Employment Agencies, [www.iza.org/en/webcontent/publications/reports/report\\_pdfs/iza\\_report\\_57.pdf](http://www.iza.org/en/webcontent/publications/reports/report_pdfs/iza_report_57.pdf).

According to the economic report of the International Confederation of Private Employment Services (CIETT, 2015) in 2013 there were 260,000 private employment agencies with 236,000 branches around the world, employing 1.66 million people internal staff.<sup>8</sup> It is estimated that 10.4 million workers registered with these agencies, are employed by private employment agencies across the globe in 2010 and 128,000 Private Employment Agencies are registered in the area of Asia-Pacific which counts for 57 per cent of the employment agencies, in Europe for 26 per cent and followed by North America for 12 per cent of them. China, Japan and the United States of America are the three leading countries in the number of Private Employment Agencies, which together count for 65 per cent of the private agencies worldwide.<sup>9</sup>

According to an official report of the World Bank,<sup>10</sup> many countries in the world are suffering high unemployment rate (such as Spain and Greece, where the unemployment rate for 2013 is estimated to be 27% – some 3% in the last two years), while developed countries such as the Nordic countries or the Middle East countries are facing relative shortages of manpower for specific professions. The Private Employment Agencies play their role in the efforts to match demand and supply in the labour market. The PEAs, in the countries with high unemployment rates, are becoming the major catalysts that make possible the posting of the workforce where needed in order to fill the vacancies and fulfil the emerging labour market needs.

Meanwhile, improper practices of PEAs worldwide include fraud for financial benefit, forgery of official documents, manipulation of visas or more serious cases such as abuse and trafficking, mostly in minors and women for prostitution purposes, etc. Precisely such improper practices led to the need for a stricter regulation and consequently **the International Recruitment Integrity System (IRIS)** was established. This certification system was developed from the International Organization for Migration (IOM), together with the International Organisation of Employers (IOE) and a coalition of stakeholders committed to ethical recruitment.

IRIS aims at bringing about transformational change in some parts of the recruitment industry regarding cross-border recruitment, where the business model is largely based on charging excessive fees and migrant workers exploitation. IRIS will make this through the creation of a level of “playing field” that encourages good practices and a labour market that is not related to exploitation and labour abuse.<sup>11</sup>

## 1.2 Private Employment Agencies in Albania

Albania has ratified the ILO Convention No. 181 “Private Employment Agencies” which foresees the activities to be performed by a Private Employment Agency, and the rights and obligations of the clients of these services. Since 1999, with the drafting and approval of several primary and secondary legislations, as it will be mentioned below,<sup>12</sup> it has been allowed the establishment and functioning of the PEAs.<sup>13</sup> These agencies provide:

- (i) services that assess the requests and employment applications in the country and abroad;
- (i) services related to job-seeking;

---

8 Ciett Report (2015), [www.ciett.org/fileadmin/templates/ciett/docs/Stats/Economic\\_report\\_2015/CIETT\\_ER2015.pdf](http://www.ciett.org/fileadmin/templates/ciett/docs/Stats/Economic_report_2015/CIETT_ER2015.pdf).

9 Ciett Report (2012), [www.eurociett.eu/fileadmin/templates/ciett/docs/Stats/Ciett\\_econ\\_report\\_2012\\_final.pdf](http://www.eurociett.eu/fileadmin/templates/ciett/docs/Stats/Ciett_econ_report_2012_final.pdf).

10 World Bank, statistics for the unemployment indicator, <http://data.worldbank.org/indicator/SL.UEM.TOTL.ZS/countries/1W-EU-C7?display=graph>.

11 IRIS Code of Conduct, International Recruitment Integrity System (IRIS), [www.ioe-emp.org/fileadmin/ioe\\_documents/publications/Policy%20Areas/migration/EN/\\_2015-07-24\\_C-173\\_ANNEX\\_IRIS\\_Code\\_of\\_Conduct.pdf](http://www.ioe-emp.org/fileadmin/ioe_documents/publications/Policy%20Areas/migration/EN/_2015-07-24_C-173_ANNEX_IRIS_Code_of_Conduct.pdf).

12 For further readings refer to Chapter 2 and the references of the chapter.

13 [http://pdc.ceu.hu/archive/00006158/01/agenda\\_policy\\_brief\\_youth\\_employment\\_en.pdf](http://pdc.ceu.hu/archive/00006158/01/agenda_policy_brief_youth_employment_en.pdf).

- (i) services for employment of workers with the aim to make them available to a third party, natural or legal person, assigning tasks and supervising their execution.

According to the National Licensing Centre (NLC), there are currently 28 private employment agencies operating in Albania. The yearly activity of the private agencies is mainly focused on hiring a limited number of people, especially outside the country. Their activity has facilitated employment of Albanian migrant workers abroad, and it has contributed somewhat to the expansion of legal forms of international labour migration within the country, in order to ensure social security, **a safe and decent** job for migrant workers and mitigating the undesirable risks related to the issues of illegal migration and trafficking in human beings.

According to the official data, Albania has issued 2189 work permits to foreigners in 2013,<sup>14</sup> for various origin countries.<sup>15</sup> Albania through the approval of the “Law on Foreigners” in 2013 prepared the regulatory framework for migrant worker in the country. As acknowledged in the last National Strategy on Employment and Skills 2014–2020, drafted by the Government of Albania and Ministry of Social Welfare and Youth, there are several Private Employment Agencies operating in the country, but there is no mechanism to ensure the ethical recruitment and recruitment standards of Albanians abroad.<sup>16</sup>

It is important to emphasize that the private sector of recruitment in Albania, although relatively new, is not accused for encouraging or assisting trafficking in human beings regardless of the geographical position of Albania along the main transit routes to Europe. Considering the fact that there have been several cases of trafficking, smuggling and the fact that the activity of Private Employment Agencies has been investigated, it is important to clearly define the recruitment role of private sector in Albania, as of the very beginning.

Private Employment Agencies in Albania provide employment services to Albanians seeking employment in the country and abroad and foreigners seeking employment opportunities in Albania. Therefore some of them may be considered businesses with high growing potential. Some of Private Employment Agencies in Albania which carry out activities only in the country have the opportunity to expand the operating sector and have a good development capacity, based on the increasing business experience. Most of PEAs provide simply the employment service mediation. Thus, their recruitment activities include the creation of a database of job offers and job-seekers, and very rarely do they provide training or career counselling for. The selection of candidates is largely reduced to a CVs competition.

However, the Ministry of Social Welfare and Youth, in the framework of drafting the National Strategy for Employment and Skills, 2014–2020, has reviewed and redefined some goals that are associated with the private sector of labour market mediation.<sup>17</sup>

Recently the market has seen even Private Employment Agencies that deal with seasonal/temporary employment programmes of students abroad. These include the programme “Summer Work and Travel” in the United States of America and “Au Pair” in Germany, under which a relatively small number of students is allowed to work for a season abroad.

14 Ministry of Social Welfare and Youth, Press Release, 2014 : [www.sociale.gov.al/al/te-reja/deklarata-per-shtyp/sula-mmsr-perpjekje-per-te-promovuar-emigracionin-e-rregullt&page=7](http://www.sociale.gov.al/al/te-reja/deklarata-per-shtyp/sula-mmsr-perpjekje-per-te-promovuar-emigracionin-e-rregullt&page=7).

15 It is worth mentioning that this number of working permits doesn't reflect the number of migrants from Kosovo and EU countries, given that the latter are provided only with an exclusive certificate.

16 National Strategy of Employment and Skills 2014–2020, [www.sociale.gov.al/files/documents\\_files/Strategjia\\_per\\_Punesim\\_dhe\\_Aftesim\\_2014-2020.pdf](http://www.sociale.gov.al/files/documents_files/Strategjia_per_Punesim_dhe_Aftesim_2014-2020.pdf).

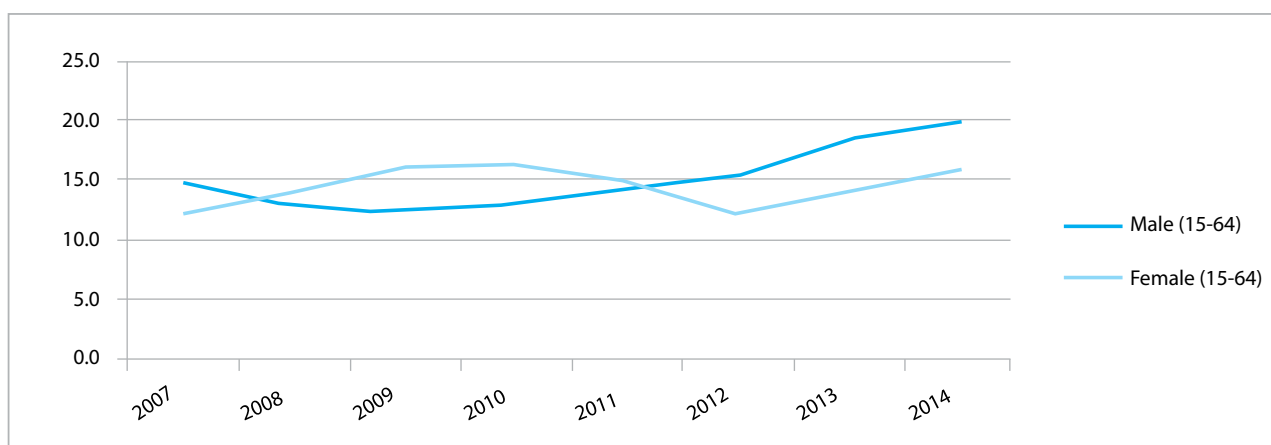
17 “...It will be improved compatibility with the international standards ratified by Albania regarding the employment and emigration. This includes the creation of a regulatory framework for private employment agencies, aligning employment services with European standards and the presentation of a system for managing labor emigration, which supports the compatriots who intend to emigrate abroad, as well as the Albanian emigrants who wish to return.” Furthermore reading: National Strategy for Employment and Skills 2014–2020, [www.sociale.gov.al/files/documents\\_files/Strategjia\\_per\\_Punesim\\_dhe\\_Aftesim\\_2014-2020.pdf](http://www.sociale.gov.al/files/documents_files/Strategjia_per_Punesim_dhe_Aftesim_2014-2020.pdf).

Moreover, there have been created several online portals of jobs advertisement, but they have not been registered as Private Employment Agency and consequently they are governed differently. Their services include the posting of job vacancies, news about the labour market and information on the recruitment process. These portals have become the key informants for job-seekers in terms of job vacancies, and the first place for a job-seeker to search for a job.

In the situation of unemployment in Albania and the return tendency of Albanian emigrants in the country, the Private Employment Agencies gain special importance; moreover the individuals who seek employment opportunities in the country seek employment opportunities with higher salaries abroad. The unemployment rate in the country is shown in Figure 1.

Important statistics are those of emigrants returned in the country in the recent years (*Reintegrated Emigrants*). A total of 133,554 Albanian immigrants have returned to Albania during 2009–2013; of them 98,414 were men and 35,130 were women<sup>18</sup>. Meanwhile the number of registered returned job-seekers has increased from 484 in 2010 to 2,136 in 2013, which is a fourfold increase<sup>19</sup>.

Figure 1. Unemployment rate in Albania (2007–2014)



Source: INSTAT, 2015.

There is a lack of information and public awareness regarding services that are provided by private employment agencies.<sup>20</sup> This is a problem that must be considered if these agencies want to gain the trust of all stakeholders and play their role as successful intermediators. What should be emphasized is the lack of inherent public studies in relation to the existence of Private Employment Agencies in Albania by the government and research institutions, but also by private organizations interested in the sector. The only research efforts are conducted by the employment agencies. However, such market research must be considered as company information, widely unusable by researchers and interested scholars.

### 1.3 The survey implementation

The survey implementation required a clear methodological approach and a deep search on Private Employment Agencies, in order to make an assessment of the current operating conditions of the PEAs.

18 Return Migration and Reintegration in Albania, 2013, IOM and INSTAT, <http://albania.iom.int/publications/reports/Return%20Migration%20and%20Reintegration%20in%20Albania%202013.pdf>.

19 "Employment Promotion Programs in Albania: Assessment of the their quality on the formulation and implementation processes (2008-2014)": [www.kerkojune.gov.al/wp-content/uploads/2015/04/EPPAlbania-Final-Report-Alb-Final.pdf](http://www.kerkojune.gov.al/wp-content/uploads/2015/04/EPPAlbania-Final-Report-Alb-Final.pdf).

20 World Bank 2015, Challenges Facing Albanian Youth On The Road Towards Employment, [http://pdc.ceu.hu/archive/00006158/01/agenda\\_policy\\_brief\\_youth\\_employment\\_en.pdf](http://pdc.ceu.hu/archive/00006158/01/agenda_policy_brief_youth_employment_en.pdf).

Below is presented the survey methodology, as well as its limitations, which come as a consequence of the period when the survey was conducted, but mostly as a consequence of the development of the market mediation sector and the sector itself.

### 1.3.1 Methodology

The methodology chosen for the Framework Assessment of Private Employment Agencies is focused on the compliance with the PEAs Framework in the country, with the international standards vis-à-vis the recruitment of emigrant workers, which are specific for female migrant workers in order to assess the current situation and identify recommendations on ethical recruitment standards in Albania for the PEAs.

The study is based on primary and secondary data. The basic assessment methods used are secondary research of materials and qualitative research through in-depth interviews and field visits. This methodology is followed for all stakeholders considered as part of the study.

- a. As it can be seen in the section above, through literature review and previous studies in Albania and in the world, it has been made an effort to group various findings in specific periods of time, to serve as a reference during the analysis in our study. The differences in the previous findings for the topic are subject-matter of a secondary research. They serve as an appropriate reference in the gender disaggregation in the PEAs market.

The secondary research of materials includes the grouping of existing data from different public sources published by State and non-State institutions, internet data, audiovisual and mass media articles by professional journalists in the field, and reports by international organizations. The collected data have served to make an overall assessment of the situation in particular with regard to the institutional and legal framework of the functioning of Private Employment Agencies and their market. This kind of research, because of the gender perspective, has been an important element of the analysis. The comparison with other countries is also considered important for the study as a whole and for a future creation/development of a plan for the operational standards of PEAs. The secondary research is important also for a future gap analysis, which has could be conducted for the respective market and legislative framework. This technique requires for the international standards and the best practices of other countries in the region or beyond to be compared with Albanian legislation and the Albanian institutional framework, as well as a review of the ILO Conventions and the compliance with the Albanian legislation.

- b. The primary research includes the list of questions addressed to the managers of PEAs, recruitment specialists, employees, migrant workers and representatives of organizations such as the Labour Inspectorate, the Ministry of Social Welfare and Youth, the Ministry of Foreign Affairs, the Ombudsman, the National Service Employment and Regional Employment Offices. Moreover, it has been analysed the General Police Directorate with the relevant department of Migration and Border Police.

In-depth interviews are semi-structured and addressed to the specialists in the field or to know-how “owners” of practices in the Albanian employment market and abroad. They serve to make an assessment of the current situation and raise issues and major problems. As it is widely accepted by experts, in-depth interviews are used mainly to discuss with high-level specialists, technicians, experts and individuals directly involved in this topic.

In the framework of implementation of in-depth interviews, the target groups are the public institutions linked directly or indirectly to emigrants’ employment, private companies, emigrant workers and other groups involved in this topic. The questions designed to conduct in-depth interviews are divided on



the basis of stakeholders/representatives who are interviewed, to keep the same partition/form in the completion of a clear framework of what constitutes a market of Private Employment Agencies in Albania.

In-depth interviews conducted after a further analysis of the sector have affected four main groups of actors part of the study: Private Employment Agencies (businesses that offer mediation service in the labour market); Albanian emigrants employed abroad and aliens employed in Albania; governmental/ State institutions; structures/other individuals such as legal advice companies, lawyers, auxiliary parallel structures.

Albanian migrants employed abroad and aliens employed in Albania were selected on the basis of the “snowball” technique. Some of the interviews were conducted face to face while most of them were made via email.

The latter is selected and limited to these designations because of lack of organization into associations and other structures of the private employment agencies and foreign or Albanian individuals into trade unions and associations for the protection of rights of emigrant workers.

**Table 1. Sample of the survey**

No.	Stakeholders part of the qualitative survey	Representation	Sample
1	Businesses that provide mediation services in the labour market.	40% <sup>21</sup>	13
2	Albanian emigrants employed abroad and aliens employed in Albania.	Unspecified	8
3	Governmental/State institutions.	Unspecified	6
4	Structures/Other individuals.	Unspecified	4

Source: Survey results processed by the author, 2015.

Further this report in the respective chapters deals with an institutional and legal framework of the functioning of Private Employment Agencies, assessment of the conducted survey, the drafting of a plan for the achievement of desired standards under PEAs and the conclusions and recommendations.

### 1.3.2 Limitations of the survey

The study on Private Employment Agencies and the general framework of their functioning encounters some obstacles that come as a fusion of elements inherited over the years with impact on the public institutions and the private sector.

- ✓ There is a shortage in the public data of Private Employment Agencies regarding the number of emigrant workers abroad, the number of candidates that the PEAs have at a certain period of the year, experience of PEAs providing employment to migrant workers abroad, number of offers during different years, etc.
- ✓ At the same time, under the justification of protecting applicants’ data, most of PEAs do not disclose specific data or statistics on the contingents of individuals whom they have employed abroad, the problems encountered and cases calling for an intervention by state institutions of the host country or Albanian ones, etc. The last two appear to be a result of their desire to preserve the “good name” of the companies. From this point of view, it is encountered lack of cooperation from a large part of PEAs targeted to be interviewed.
- ✓ During the study, there were rejections in participating in this study, arguing that “the statistics obtained over the years from the business experience cannot be provided easily for general use, since they are instruments for the continuous study and market positioning” by these companies.
- ✓ Limitation with significant impact on the results of the study are also the data collected from NLC, National Registration Centre (NRC), and SLI, because of lack of updates of public data for the business area where companies known as PEAs operate. At the same time, lack of control and

21 This percentage represents the number of interviewed PEAs (13) out of all PEAs operating in the market (31) identified in October 2015.

monitoring in the framework of the status of PEAs does not allow the provision of information on possible improper practices of these businesses.

- ✓ A phenomenon affecting the study is also the informality campaign organized by the Government of Albania in the period September–October 2014, which resulted in the end of the activity for some businesses or the change to the passive status. In the study, this limitation has been observed in the sector of Private Employment Agencies as well and in the cases of active businesses there has been a general reserve in relation to the study and missing willingness to cooperate.

## 1.4 Benchmark development for PEAs functioning

### 1.4.1 Overview on Ethical Recruitment of PEAs

The Private Employment Agencies within the scope of their activities have the ethical obligation to *apply a set of procedures and practices based on ethical conduct*. The application of these ethical standards may not rely and occur only in the framework of personal initiatives of these companies. Instead it must be accompanied by the respective legal framework, which must serve as a catalyst for ethical behaviour and guardian of good practices of these agencies. Article 8 of ILO Convention No. 181 requires member states to establish a legal framework, including appropriate penalties, such as fines or even the closure of private employment agencies, to protect migrant workers from abuses committed by these private agencies.<sup>22</sup>

The reference literature considers several elements which are identified as signs of success or failure of ethical recruitment. Some of them may be considered as examples of abusive recruitment which the literature classifies as follows: withholding of salaries or changes in the agreed amount of salary, “hidden conditions” in the contract, non-performance of the contract, violence and intimidation in the workplace, collection of passports, identity cards, bank cards, work permits, application of higher tariffs for accommodation, food, transport, control on free movement of workers, long working hours, isolation, denial of language courses, illegal recruitment fees, refusal to being part of unions, health and social insurance, etc.<sup>23</sup>

The ethical standards in the recruitment process are seen in different phases of the process and consider all possible elements. IRIS emphasizes in its principle No. 1 “The Respect for ethical and professional behaviour” in order to ensure that emigrants are treated with dignity and respect.<sup>24</sup> According to the best practices of international organizations and unions of Private Employment Agencies and interest groups ethical recruitment can be grouped in the following table. Table 2 lists in a summary the indicators related to ethics in recruitment within the Private Employment Agencies.

Table 2. Key indicators related to companies

Summary Indicators
Legal compliance.
Involvement of ethical principles and Code of Ethics in the work practices.
Respect for the rights of candidates.
Avoiding Corruption and conflict of interest.

Source: Data processed by the author, 2015.

22 [www.ilo.org/wcmsp5/groups/public/@ed\\_dialogue/@sector/documents/meetingdocument/wcms\\_164611.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@sector/documents/meetingdocument/wcms_164611.pdf).

23 [www.heuni.fi/material/attachments/heuni/news/xVQCA9pnF/BROCHURE\\_net\\_Guidelines.pdf](http://www.heuni.fi/material/attachments/heuni/news/xVQCA9pnF/BROCHURE_net_Guidelines.pdf).

24 IRIS, Principle 1, Respect for Ethical and Professional Conduct, [www.ioe-emp.org/fileadmin/ioe\\_documents/publications/Policy%20Areas/migration/EN/\\_2015-07-24\\_\\_C-173\\_ANNEX\\_IRIS\\_Code\\_of\\_Conduct.pdf](http://www.ioe-emp.org/fileadmin/ioe_documents/publications/Policy%20Areas/migration/EN/_2015-07-24__C-173_ANNEX_IRIS_Code_of_Conduct.pdf).

Meanwhile, if we analyse ethical recruitment indicators and summarize them based on the experiences of other countries,<sup>25</sup> we will notice that they are inextricably linked with the above elements seen from the enterprises point of view, but expressed in different terms. The IRIS Code of Conduct is based on five pillars in order to stimulate PEAs ethical recruitment.

**Table 3. IRIS Code of Conduct principles**

1	Prohibition of recruitment fees to job-seekers.
2	Respect for freedom of movement.
3	Respect for transparency of terms and conditions of employment.
4	Respect for confidentiality and data protection.
5	Respect for access to remedy.

Source: IRIS, 2015.

Nowadays, PEAs play an important role in mediation of workers in relation to vacancies. Table 4 lists a number of elements, which are summarized in the main groups that affect migrant workers, the recruitment process and their rights. These elements are as well related to the main rules of ethical recruitment. Next to them, the respective elaboration for each of these principles is given.

**Table 4. Ethical recruitment issues**

1	Respect for Ethical and Professional Conduct.	<ul style="list-style-type: none"> <li>PEAs must meet their responsibility to respect human rights in the context of their recruitment activities, by having in place policies and processes, including due diligence, to ensure that their recruitment activities are conducted in a manner that treats migrant workers with dignity and respect, free from harassment, or any form of coercion or inhumane treatment.</li> </ul>
2	Respect for Laws, and Fundamental Principles and Rights at Work.	<ul style="list-style-type: none"> <li>PEAs must comply with all applicable legislation, regulations, multilateral and bilateral agreements on labour migration, and policies related to the recruitment, selection, transportation and placement into employment of migrant workers in the jurisdictions of origin, transit and destination countries, including those pertaining to the immigration or emigration of migrant workers.</li> </ul>
3	Prohibition of Forced Labour and Human Trafficking.	<ul style="list-style-type: none"> <li>PEAs must not use, recruit or deploy forced labour or persons subjected to human trafficking.</li> <li>PEAs should take appropriate measures to prevent the use of such labour in connection with their activities.</li> </ul>
4	Provision of Child Labour.	<ul style="list-style-type: none"> <li>PEAs must not use or offer child labour.</li> <li>PEAs should take appropriate measures to prevent the use of such labour in connection with their activities.</li> </ul>
5	Prohibition of Recruitment Fees to Job-seekers.	<ul style="list-style-type: none"> <li>PEAs must not charge directly or indirectly, in whole or in part, any fees or costs to migrant workers, for the services related to recruitment for temporary or permanent job placement.</li> <li>PEAs should take appropriate measure to ensure that any recruitment fees paid by an employer in connection with their services are not recouped directly or indirectly, in whole or in part, from workers.</li> </ul>
6	Respect for Freedom of Movement.	<ul style="list-style-type: none"> <li>PEAs must not require migrant workers to provide a monetary deposit or other collateral as a condition of employment, and must not withhold, destroy or confiscate identity documents, wages, or other personal belongings, and otherwise limit the freedom of movement.</li> <li>PEAs must take appropriate measures to ensure that upon deployment migrant workers are not subject to the above mentioned practices and enjoy freedom of movement.</li> </ul>
7	Respect for the Right of Freedom of Association and Collective Bargaining.	<ul style="list-style-type: none"> <li>PEAs must not in any way deny the right of freedom of association.</li> <li>PEAs must take appropriate measures to ensure that migrant workers are not deployed to workplaces where they are denied worker representation and the right to freedom of association and to bargain collectively.</li> <li>In accordance with national law and practice, PEAs must not make workers available to an employer or user enterprise to replace workers who are legally on strike.</li> </ul>

25 For further readings please refer to: [www.verite.org/sites/default/files/ethical\\_framework\\_paper\\_20120209\\_PRINTED.pdf](http://www.verite.org/sites/default/files/ethical_framework_paper_20120209_PRINTED.pdf); [www.ilo.org/wcmsp5/groups/public/@ed\\_dialogue/@sector/documents/meetingdocument/wcms\\_164611.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@sector/documents/meetingdocument/wcms_164611.pdf); [www.qscience.com/userimages/ContentEditor/1404811243939/Migrant\\_Labor\\_Recruitment\\_to\\_Qatar\\_Web\\_Final.pdf](http://www.qscience.com/userimages/ContentEditor/1404811243939/Migrant_Labor_Recruitment_to_Qatar_Web_Final.pdf); [www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms\\_233369.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_233369.pdf).

26 IRIS, International Recruitment Integrity System.

8	Respect for Decent Work and Accommodation.	<ul style="list-style-type: none"> <li>• PEAs must take appropriate measures to ensure that migrant workers enjoy safe and decent work.</li> <li>• When accommodations are provided by PEAs, they must ensure that they are safe, clean and hygienic.</li> <li>• When accommodations are provided by the employer or user enterprise, PEAs should take appropriate measures to ensure that they are safe, clean and hygienic.</li> </ul>
9	Respect for Transparency of Terms and Conditions of Employment.	<ul style="list-style-type: none"> <li>• PEAs must ensure that, prior to deployment, migrant workers are provided with written contracts in a language each worker understands, detailing the terms and conditions of employment including but not limited to the nature of the work to be undertaken, rates of pay and pay arrangements, working hours, vacation and other leave, and all other lawful deductions from pay and benefits of employment in accordance with national law.</li> <li>• PEAs must ensure that the worker's assent is obtained without coercion.</li> <li>• PEAs should take appropriate measures to ensure the contract is not substituted for one of less favourable conditions upon deployment.</li> </ul>
10	Respect for Equal Treatment and Non Discrimination.	<ul style="list-style-type: none"> <li>• PEAs must treat migrant workers without discrimination and must respect diversity based on race, colour, sex, religion, political opinion, national extraction, social origin, sexual orientation, age, disability, or any other form of unlawful and unethical discrimination covered by national law and practice.</li> <li>• PEAs must take appropriate measures to ensure that upon deployment migrant workers are not subject to discrimination that would constitute a violation of their human and labour rights.</li> </ul>
11	Respect for Confidentiality and Data Protection	<ul style="list-style-type: none"> <li>• PEAs must not record, in files or registers, personal data which are not required for judging the aptitude of migrant workers for jobs for which they are being or could be considered, or required to facilitate their deployment.</li> <li>• PEAs must ensure that all personal data that they collect, receive, use, transfer or store shall be treated as strictly confidential and shall not be communicated to any third party without the prior written approval of the worker.</li> </ul>
12	Respect for Access to Remedy.	<ul style="list-style-type: none"> <li>• PEAs must ensure that migrant workers effective access to remedy, as provided by law, and to effective operational-level grievance mechanisms in relation to their recruitment activities without fear of recrimination, reprisal, or dismissal.</li> <li>• PEAs should take appropriate measures to ensure that upon deployment migrant workers equally have effective access to remedy, as provided by law, and to effective operational-level grievance mechanisms, without fear of recrimination, reprisal, or dismissal.</li> </ul>

Source: IRIS, 2015.

#### 1.4.2 Best practices of PEAs operational framework

The general activities of Private Employment Agencies include several areas where different countries follow different practices. Currently the similarity of PEAs practices in Albania and other countries is not very high but the best practices of other countries by certain types of markets must be considered as guidelines for the labour market functioning and mediation services in the labour market.

Considering that the Albanian market is generally unregulated, best practices of countries which are governed by the legislation should be taken as good examples. They would constitute a good reference to understand the spaces that Albania and PEAs market must overcome in order to function in a more regular manner.

The reason for the selection of the following countries as reference points is generally related with our geographical position, our history and our current economic development. For example, Poland and Ukraine are both developing countries as Albania, and best practices in their legislation can be easily implemented in our country. Poland is taken as our main reference since it is one of the few European countries deploying migrant workers abroad through PEAs and has a story that can serve as a good example of what should and should not be done. Germany is considered among the best practices as its legislation it allows PEAs to conduct other activities as well in parallel with their main activity as labour market intermediary, thus finding similarities with our system. In addition, Belgium is considered as the most regulated market in terms of PEAs and thus it may serve as a good example for Albania, particularly to strengthen the regulation and inspection of PEAs. Regarding the strict

regulation and inspection, Italy as well can be a good reference. PEAs in Italy should have a significant initial financial capital in order to be licensed and if they do not comply with the job-seeker contract, they become subject of severe penalties.

In particular, the best practice associated with the **general conditions of registration** is observed in Poland, which as a developing country, is faced with many similar issues with Albania. In Poland, in order for a potential agency to obtain a license, it must submit mandatory information and a statement and then wait until all the data is verified. The process ends with a positive or negative response, but if the request is rejected the application costs are not refunded. Germany is a very good example referring to the licensing conditions. The application for a license requires a fee of EUR 750 and the validity of the license is one year, and can be extended upon request. If the license is extended for three times, the agency is offered the possibility of obtaining an indefinite license.<sup>27</sup> Therefore, facilitated licensing practices are available to those PEAs that have experience in employment services. In Belgium, PEAs must apply for a license in the first six months of their activity, which is valid for one year and then they may be issued with a permanent one. The registration fee is an ordinary procedure in many countries in the application process for a license by the PEAs.<sup>28</sup>

The German legislation allows business offering mediation in the labour market to **carry out other activities in parallel** with the provision of this service. While Belgian law strictly prohibits Private Employment Agencies to operate in other activities. This legislation restricts even the activity of employment mediation in specific sectors or industries.<sup>29</sup>

In some Western European countries the **financial capacities** are an important prerequisite in applying for a PEAs license. Such financial capacities serve as a guarantee. Such a condition is applied by Germany which uses the amount of financial capacity as a deposit from which candidates can benefit in case of injury at work. In Italy as well, the agencies need a start-up capital that can vary from EUR 350,000–600,000.

In Europe, Belgium represents the most regulated market as regards the activity of PEAs. To obtain a license, managers should submit their CV and relevant certificates that illustrate their **professional qualifications**. This is very important in order to guarantee the best service and protection to the job-seekers.

**The possibility of transferring the license** is paid special attention because such transfer makes difficult the monitoring of activities of licence holders. Licence transfer can be used for application of abusive and even unlawful practices. In Ukraine, if a Private Employment Agency transfers the license to a third party, according to the legislation it will be revoked the license.<sup>30</sup>

What is strictly forbidden is **application of fees/tariffs on individuals seeking employment**.<sup>31</sup> PEAs should not in any way charge directly or indirectly, fully or partially, any fees or expenses to workers. According to the ILO Convention 181, this can only happen if the country deciding to apply such fees presents the relevant argument to the International Labour Organization and receives an approval, such as Germany.<sup>32</sup> A best practice in terms of fees application is found again in Belgium. The best practice in terms of banning application of tariffs is found again in Belgium. Moreover, in Italy, if PEAs

---

27 Survey of Legislation on Temporary Agency Work, Stefan Clauwaert, Brussels 2000.

28 European Parliament (2013), The role and activities of PEAs, [www.europarl.europa.eu/meetdocs/2014\\_2019/documents/empl/dv/empl20141120-study-temp-agencies-/empl20141120-study-temp-agencies-en.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/documents/empl/dv/empl20141120-study-temp-agencies-/empl20141120-study-temp-agencies-en.pdf).

29 Survey of Legislation on Temporary Agency Work, Stefan Clauwaert, Brussels 2000.

30 ILO (2013), Private Employment Agencies in Ukraine, [www.ilo.org/wcmsp5/groups/public/@europe/@ro-geneva/@sro-budapest/documents/publication/wcms\\_244716.pdf](http://www.ilo.org/wcmsp5/groups/public/@europe/@ro-geneva/@sro-budapest/documents/publication/wcms_244716.pdf).

31 C 181, ILO Convention, On Private Employment Agencies: [www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::N0::P12100\\_INSTRUMENT\\_ID:312326](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::N0::P12100_INSTRUMENT_ID:312326).

32 For further readings: European Parliament (2013), The role and activities of PEAs, [www.europarl.europa.eu/meetdocs/2014\\_2019/documents/empl/dv/empl20141120-study-temp-agencies-/empl20141120-study-temp-agencies-en.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/documents/empl/dv/empl20141120-study-temp-agencies-/empl20141120-study-temp-agencies-en.pdf).

receive payment from workers they become subject to fines and penalties of EUR 2,500–6,000.

**Contracts** are the most important document connecting legally the job-seeker and the agency. They must be written and contain information as regards the description, work conditions, time schedule, bonuses etc. If contracts are not observed in Italy a **fine** is imposed against the PEA between EUR 250 and EUR 1,250.<sup>33</sup> In principle, **equal treatment** is guaranteed by the law, but it happens often that the cases are different from each other depending on the nature of the signed contract. Difficulties are encountered in particular with regard to safety and health. However discrimination of this kind is avoidable through collective contracts.<sup>34</sup>

Below are presented some of the main best practices in different countries taken into consideration for the analysis.

Table 5. Overview of the regulation framework in countries of best practices

Countries	Main characteristics of the regulation framework in the country
Germany	<ul style="list-style-type: none"> <li>Market based on social dialogue.</li> <li>Self-regulation, code of conduct based on collective agreements.</li> <li>Moderately regulated, PEAs need a license from the public employment agency (application tariff of EUR 750).</li> <li>If the license is renewed 3 times, it is possible for the company to obtain an unlimited permission.</li> <li>No specific professional qualification is required.</li> <li>PEAs have to report statistical data to the public employment agency and respective authorities twice a year.</li> <li>Public Employment Agency and customs authorities, especially the department that monitors illegal employment, are responsible for controlling the work of PEAs and sanctioning.</li> </ul>
Belgium	<ul style="list-style-type: none"> <li>PEAs need a license in order to operate.</li> <li>Self-regulation, code of conduct.</li> <li>Specific qualification required: CV and certificates.</li> <li>Reporting requirements for statistical and control purposes.</li> <li>Strict monitoring. In cases of violations, PEAs may be sanctioned by removal of their license.</li> </ul>
Italy	<ul style="list-style-type: none"> <li>Regulated by collective agreements.</li> <li>Need a start-up capital EUR 350,000–600,000.</li> <li>Strict supervision and control, penalties in cases of abuse.</li> <li>Self-regulation, code of conduct, which includes more specific norms referring to the rules defined in the national legislation.</li> </ul>
Poland	<ul style="list-style-type: none"> <li>No legal requirements about a deposit or a need for the start-up capital.</li> <li>Professional qualification of staff for specific agencies.</li> <li>Reporting requirements, annual report every 31 January.</li> <li>Compliance with the requirements is monitored and any breach or noncompliance is penalized (fine between PLN 5,000–30,000).</li> <li>Self-regulation.</li> </ul>
Ukraine	<ul style="list-style-type: none"> <li>PEAs activity is subject to mandatory licensing.</li> <li>A licensee should keep records of the employed individuals and report annually to the State Statistics Service.</li> <li>A licensee may be subject to a scheduled single annual control and monitoring inspections.</li> </ul>

Source: Author's work, 2015.

33 European Parliament (2013), The role and activities of PEAs, [www.europarl.europa.eu/meetdocs/2014\\_2019/documents/empl/dv/empl20141120-study-temp-agencies-/empl20141120-study-temp-agencies-en.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/documents/empl/dv/empl20141120-study-temp-agencies-/empl20141120-study-temp-agencies-en.pdf).

34 Survey of Legislation on Temporary Agency Work, Stefan Clauwaert, Brussels 2000.

To conclude these best practices it can be said that in terms of the general conditions it is better for this process to have a symbolic registration fee. Moreover, facilitating licensing practices can be offered to those agencies that are more experienced in the market (perhaps favouring them with permanent licenses if they renew their license several times). Moreover, the setting of financial capacity as a criterion when applying for a license is a good practice because it serves as a barrier assuring that not everyone can enter the employment mediation market, but at the same time can serve as a guarantee from which candidates can benefit in cases of injury at work. Concerning the criteria to obtain a license, personal qualification may be required only for the administrator and not for staff, as the latter may be subject to further training from their administrator or MSWY. Performing other activities by PEAs in parallel with the exercise of employment mediation should be allowed only if these activities are related with the employment activity, where it can be mentioned the provision of courses, trainings etc. In addition, license transferring should be prohibited by law, taking into account the high risk that it carries. Application of fees on individuals seeking employment should be strictly prohibited as it implies extra costs on the most struggling party, while the employers should be the ones to pay this fee in search of better candidates. Finally, contracts as the most important aspect of employment mediation should include all necessary information and offer same conditions for all and any disrespect of it thereof shall be sanctioned with fines.

## 2. Private Employment Agencies in Albania: Regulatory and institutional framework

The activity of Private Employment Agencies (PEAs) in Albania, as employment intermediators, is regulated by an institutional and regulatory framework. The regulatory framework is defined by the Constitution of the Republic of Albania, in the Labour Code and international conventions, while the institutional framework is constituted from the administrative authorities responsible for implementing the legislation.

- a. **The Constitution of the Republic of Albania.** The Constitution of the Republic of Albania provides dedicated regulations on the rights of individuals to decent work as well as the obligation of the state to ensure the employment suitable for all skilled workers, within own competences and available means. These general principles are further regulated in other laws and secondary legislation.
- b. **The Labour Code.** The Labour Code is the core law that provides the specific rules and regulations on employment related issues. The Labour Code sets the hierarchy of the legal norms in the employment sector. The Constitution is on the top of the hierarchy, followed by the international conventions ratified by the Republic of Albania, the Labour Code and implementing legislation as well as the employment contracts. Each provision that is contradictory with a provision specified in a higher ranked legislation will be invalid, with the exemption of the provision which implies a better position of an employee.
- c. **International Conventions.** It's worth to mention that Albania has ratified a significant number of ILO conventions on employment services and policy as well as migrant workers employment. In addition, Albania is in the process of aligning its legislation with EU *acquis communautaire*.
- d. **Institutions involved in implementation.** Regulating and monitoring the activities of PEAs also requires a well-organized institutional framework. Among the most important institutions in this process are the MSWY, SLI and NES.<sup>35</sup>

As regards the role of PEAs, Article 19 of the Labour Code defines the opportunity of the employers to employ through the services provided by employment state offices or PEAs. The same provision ensures the same level of regulation for both public and private employment liaison offices.

Employment services have an essential role in a well-functioning labour market. They are provided both by government through public employment offices and/or by private employment agencies. Fruitful collaboration between public and private employment services is an important factor for positive results. Public employment services plan and execute the labour market policies while PEAs provide alternative means for matching jobs as their core service. PEAs are also offering trainings and up-skilling activities to meet employers' needs.

<sup>35</sup> For further information look at Table 6.



## 2.1 Compliance of the Albanian legislation with the International ILO Conventions

The Government of Albania has adopted a comprehensive legal framework that aims *the protection of fundamental rights at work and the establishment of work standards in employment*. In this regard, the national legislation is improved by reviewing the existing act and also ratifying a number of international conventions in the field of PEAs and emigrants' employment.

The Albanian Parliament has approved Law No. 9991, dated on 18 September 2008 "On the ratification of the ILO Convention On Employment Services No. 88, 1948". This convention provides support and guidance in strengthening public employment services, by promoting the regulation of the activities of PEAs and encouraging productive cooperation between the two. This law refers to a national system of employment offices under the direction of a national authority, as in the case of regional offices of National Employment Service that are under the authority of Ministry of Social Welfare and Youth. Such offices operate in local level and are reachable for workers and employers.

Pursuant to this Convention, the authority in charge is obliged to take the necessary measures to ensure an efficient collaboration between public employment service and PEA, as a crucial element for the improvement of employment situation in the country. While the role of the public employment services is elaborated with the adoption of this Convention there are no effective mechanisms in place for the collaboration between private and public employment agencies.

With the scope of stimulating economic growth, development and overcoming unemployment and underemployment, the Parliament of Albania passed Law No. 9992, dated 18 September 2008 "On the ratification of ILO Convention On the Employment Policies No. 122, 1964". This law aims *to promote and ensure full, productive and freely chosen employment, as well as the opportunity for each worker to qualify for a suitable job*. Three goals that are specified in the Convention are: employment for all those who are available and seeking for employment, employment as productive as possible, freedom of choice of employment and the fullest opportunity for each worker to qualify, to use his ability for a suitable job, regardless of race, colour, sex, religion, political opinion, national or social origin.

In the application of this Convention, representatives of the persons affected by the measures to be taken, and in particular representatives of employers and workers, must be consulted concerning employment policies, in order to take full account of their experience and views and ensuring their full cooperation in formulating and enlisting support for such policies.

Another Convention that regulates effectively the services provided by PEAs, especially temporary employment agencies, by providing services and reliable professional service standards for human resources, preventing human trafficking and unfair practices is the ILOs Convention "On Private Employment Agencies" (No. 181), 1997. The ratification of the ILO Convention on "Private Employment Agencies" encourages improved efficiency of national labour markets, allowing private actors to improve matching of supply and demand for workers. It promotes cooperation between public service and private employment in various fields, including helping job-seekers and workers in user enterprises.

To better assess the compliance of the Albanian Legislation with the relevant Conventions on the focus of this study in the end of the chapter,<sup>36</sup> it has been made a comparison of the International Standards and Albanian Legislation and the current situation, organized by identified indicators in Ethical Recruitment.

---

36 For more information look at Table 13.

## 2.2 The progress of the Albanian legislation in the framework of EU integration

There is no European definition for PEAs and no special legislation that covers issues of employment agencies as part of the EU acquis. Indirectly, EU Directive 2008/104, under the regulations of the objectives of social policy and employment policy objectives, affects the role of PEAs in the mediation of supply and demand in the labour market. But in this Directive the role of PEAs focuses only on temporary employment mediation. The presence of these entities and their role in this Directive is in-line with respective ILO conventions approach, but in a much shallower manner, while in these conventions the role and functions as well as the limits of the responsibilities of these subjects are treated in more elaborate manner.

*In the Progress Report of 2015,<sup>37</sup> Albania is presented with a progress evaluated positively, but not in fully satisfactory levels. Changes to the labour code have been made with the aim to fully integrate the acquis communautaire, but there is still work to be done. Further actions are required to increase representation of women in the labour market and ensure equal opportunities and treatment. Even though the number of cases handled by the Commissioner for Protection from Discrimination has increased, a more proactive approach is required along with a better oriented work compared to what happens in reality. Efforts have been made to align the law with the EU acquis for safety and health at work, considering it a very important element for both the international practices and the requirements of employers at home and abroad.*

## 2.3 A general overview of the legal framework for PEAs licensing and functioning

The performance of private activities at work and the setting of requirements for the licensing and functioning of Private Employment Agencies (PEA) are specifically regulated by Decision No. 708 dated on 16 October 2003 "On procedures for Licensing and Functioning of Private Employment Agencies" and by the ILOs Convention on "Private Employment Agencies".

The afore-mentioned decision regulates specifically the licensing and functioning requirements. This Decision states that the PPA should initially be registered as natural or legal person, private or in the competent authorities, as well as licensed in order to be legitimized for performing the activity of job mediation.

This decision defines services provided by PEA, by giving it specifically an informative, advisory and assessing role, in terms of requirements and applications for employment mediation. According to this description, PEAs do not provide only the service of job search, but also mediation to determine the labour conditions and establishment of employment relations between the job-seekers and employers. This component of mediation is useful as it implies proper information of job-seekers about its rights and obligations in employment relations and also the work safety rules.

PEAs may perform their activity even for the employment of Albanian citizens abroad but the Decision of Council of Ministers (DCM) does not provide for the employment of foreigners or stateless persons. In the case of overseas employment mediation of Albanian citizens, the PEAs have to respect as well the relevant bilateral agreements.

An important aspect regulated by this decision is the financial obligation of the parties benefitting from the PEAs. It is specifically stated that the **PEA cannot impose job-seekers any financial obligation**, directly or indirectly, except for the payment of the expenses necessary for the completion of the

37 [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_albania.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf).

administrative file for every job-seeker. This arrangement is further strengthened in the decision, which states that **all costs of the services offered by PEAs are charged to the employers.**

Job-seekers mediated by PEAs have the right to collective bargaining, minimum wage, working time and other working conditions; statutory social security benefits; occupational safety and health. On the other hand, the PEA is obliged to provide job-seekers **equal treatment**. The Decision No. 708 states that no job-seeker can be discriminated for reasons such as gender, race, religion, ethnicity, language, political opinions, religious or philosophical beliefs, economic, educational, social or ancestry. PEAs should not be involved in job mediation in cases of life and health risk and uncertainty of job-seekers or which may be subject to abuse or discriminatory treatment. Moreover, PEAs must inform job-seekers of the working conditions and employment in every case before the start of employment relations.

**The agency staff is not required to have any necessary qualifications and trainings** for the service they provide. Among the requirements necessary for licensing is only **the presence of a technical administrator**,<sup>38</sup> which must be evidenced by a certificate of the technical administrator and an act that certifies the required employment relations. The responsible State authorities should develop training programmes for the staff of private employment agencies. The fees of these services are approved by order of the minister responsible for employment issues.

PEAs cooperate with the government employment offices in terms of the collection and the exchange of data and the use of common terminology to improve transparency of labour market functioning; they exchange announcements for job vacancies, the entering into agreements for the implementation of various activities and staff training. Pursuant to the Decision No. 708, PEAs must **report twice a year of their activities before the Ministry of Social Welfare and Youth.**

The competent authority for PEAs licensing is the minister responsible for employment issues. All PEAs shall submit a list of required documents specified in this decision in order to be licensed. To review the requirements and documentation for PEAs licensing, **the licensing commission**, is set up in the ministry responsible for employment issues. As appropriate, **within 30 days, it proposes to the minister to approve or refuse the issuance of the license.** The Minister guides the functioning of the commission and its composition. In order to be licensed PEAs must have a minimum **capital as security reserve** not less than ALL 100,000 (one hundred thousand). The license is granted for one year, with renewal right. In Albania the same license is granted to the PEAs operating in the country and abroad, without making a distinction between them.

PEAs as any other business in Albania may register a very extensive framework of activities in the NRC. If they wish to be granted a licence for these activities, they must apply separately for each activity before the National Licencing Centre (NLC). This practice will make easier and more effective their monitoring. The State Labour Inspectorate (SLI) conducts periodic inspections to determine the compliance of the agency's activity with the relevant legislation and, if violations are found, it notifies the licensing commission. When irregularities are observed and in other cases defined by the decision, the Minister responsible for labour issues may cancel the license.

## 2.4 Review of the legal framework of migrant employment in Albania

PEAs functioning is specifically regulated by Decision No. 606, dated 30 October 1995 "On granting permission for employment mediation and qualification through employment of Albanian citizens outside the Republic of Albania", which is still in force. This Decision ensures the employment mediation service for Albanian citizens outside the Republic of Albania.

---

<sup>38</sup> The information is taken by informal communications with the Ministry of Social Welfare and Youth.

The Ministry responsible for employment issues is the competent authority to issue licence for employment mediation legal and natural persons, private, local or foreign, and the mediation licence is issued when the ministry responsible for employment issues has reviewed and approved the documentation to be delivered by the subject to prove that the subject is capable of employing Albanian citizens outside the Republic of Albania.

The ministry responsible for employment matters determines the validity of the licence for mediation for some or only for a specific state. Labour market mediation *license is valid for a period of time up to one year. It may be renewed when it is justified the reason for which it was provided.*

Moreover, the ministry responsible for employment matters, supervises the activity of mediation of private natural and legal persons, local or foreign, to ensure that the mediation is in accordance with Albanian legislation and with the country where the Albanian citizens will be employed or qualified through employment.

Relations in the field of migration for employment purposes of Albanian citizens, who live in the Republic of Albania are regulated by Law No. 9668 dated on 18.12.2006 "On Emigration of Albanian Citizens for Employment Purposes". This law aims at *administering migration processes, protecting political, economic and social migrant's rights, preventing illegal emigration and human trafficking* by expanding regular migration routes and enhancing cooperation with social partners, legally recognized NGOs, local and foreign private employment agencies.

Based on this law, the responsible state authorities and private employment agencies publish, within 30 days of official approval, the job offers of the host countries for employment, seasonal employment and cross-border employment of Albanian citizens.

Private Employment Agencies, as well as any other entity, domestic or foreign, interested for employment purposes, seasonal employment or cross-border employment abroad, must obtain formal approval from the Albanian Ministry responsible for employment issues, before making public the relevant offers.

The ministry responsible for employment issues is the competent national authority, which is in charge of drafting policy and proposing changes to legislation in the field of labour migration for employment purposes and it is responsible for monitoring and evaluating the activities of the employment offices and the activities of Private Employment Agencies as well.

A special chapter of this law governs the activity of private services of emigration and specifically the role of PEAs. The State recognizes and supports the activities of Private Employment Agencies, which for the purpose of this law relate to information services, counselling and assessment of requests and applications on employment liaison; seeking job positions; services related to liaising between job-seekers and employers outside the territory of the Republic of Albania, without being a party in the employment relationships which may arise from this liaison; the training of job-seekers, to make them suitable to physical or legal entities of the host countries; cooperation and coordination of activities of state authorities responsible for providing the information needed for the development of formation and orientation courses; the exchange of information between them and the responsible state authority for the number of citizens registered in the "Register for emigrants"; benefit of a determined quota for the employment of Albanian citizens, in cases where the Ministry responsible on employment issues are made available specific quotas by the host countries.

According to this law, the Private Employment Agencies, as any other entity that provides employment, vocational training through work, seasonal employment or employment outside the Republic of Albania, must get formal approval from MYSW before making public their respective offers. The Private Employment Agency at the end of each 6-month period must report to the Ministry responsible for employment issues, data on Albanian citizens for whom they have organised employment abroad and any other information required for their activity.

The Albanian Legislation has no specific policy on gender perspective regarding employment of migrants. In order for individuals to freely exercise their rights to choose and accept employment, it is required a high level of protection, particularly for women. While individuals should be protected from abuse and exploitation during the exercise of their rights, entrepreneurs have the right to freely create businesses with focus on mediation in the labour market in the country and abroad, by being licensed and becoming part of free and organized agreements with companies and public employment services in other countries of the world. If PEAs observe or become aware that the legislation of the host state or international laws are not being respected, they notify the responsible Albanian State authorities.

On the other hand, PEAs are obliged, at any time, to take good care for Albanian citizens, for whom they have been liaised employment abroad by taking into consideration the *respect of the terms of the contract, non-discrimination and respect for their rights*. In cases the Albanian responsible State authorities observe or become aware that a PEA has liaised employment of its citizens abroad, through fraudulent practices, they inform the authorities determined by law to assess the activity of the agency.

This legal assessment is made based on the Albanian legal framework covering and regulating the activity of the Private Employment Agencies (PEA) and their role in employing emigrant workers. This document intends also to identify the areas of concern for employment of migrant workers and provide recommendation for the improvement of the situation. The analysis and the recommendation will take into account the position of Albania, comparing it with the international conventions standards and the best practices at international and regional (EU level) plan.

## 2.5 Institutional framework of migrant employment in Albania

It is important mentioning that it is the responsibility of each stakeholder including PEAs, governmental institutions in the country of origin, consular authorities and government institutions in the country of destination to ensure migrant workers protection. Therefore, aiming to develop an effective schematic model concerning the aforementioned issue, Figure 2 presents the areas of responsibility for each stakeholder.

Figure 2. Stakeholder responsibilities in migrant worker protection

Private Employment Agencies	<ul style="list-style-type: none"> <li>- Applying the bilateral agreements between the two countries.</li> <li>- The agency should not mediate the job-seeker in work places that do not fulfil the minimum criteria of safety and non-discrimination.</li> <li>- PEAs must ensure that migrant workers are provided with written contracts in a language each worker understands, detailing the terms and conditions of employment including the nature of the work to be undertaken, pay arrangements, working hours, etc.</li> </ul>
Governmental institutions in the country of origin	<ul style="list-style-type: none"> <li>- Collects and exchanges information from the PEAs for the number, countries and length of residence of Albanian emigrants.</li> <li>- Collects and disseminates information on labour legislation and social protection, protection of the rights of migrant workers.</li> <li>- Establishes and improves communication with the relevant institutions and structures of the host countries of Albanian workers whether employed by PEAs or not.</li> </ul>
Consular authorities	<ul style="list-style-type: none"> <li>- Negotiating in favour or against certain administrative actions or legislation proposals.</li> <li>- Providing assistance to recover income or other benefits.</li> <li>- Ensuring that persons with health issues receive medical care or assistance to return to their country of origin.</li> <li>- Promoting good relations in labour matters with the host country.<sup>39</sup></li> </ul>

39 Seminar-Workshop on Capacity Building for Consular Officials on the Protection of Labour Rights OF Migrant Workers, 2012, [www.rcmv.org/Publicaciones/docs/Seminario%20y%20Relatoria%20Autoridades%20Consulares%20IN-GL%20C9S.pdf](http://www.rcmv.org/Publicaciones/docs/Seminario%20y%20Relatoria%20Autoridades%20Consulares%20IN-GL%20C9S.pdf).

Governmental institutions in the country of destination

- Destination countries should guarantee labour and social rights for migrant workers as they do for domestic ones.
- Destination countries should ensure that laws and regulations protecting migrant workers are actually enforced and are effective deterrents.
- With regard to social welfare, health insurance and medical care should be available to migrant workers.
- Even when migrant workers are finished with their work and return home, the destination country is involved in facilitating the termination of work and in making sure that the travel to the origin country is as secure as possible.<sup>40</sup>

Source: Author's work, 2015.

### 2.5.1 The role of public institution in migrants employment

Regulation and supervision of PEAs activity is competence of the Ministry of Social Welfare and Youth. According to the DCM No. 845, dated 27.09.2013 "On definition of the Area of State Responsibility of the Ministry of Social Welfare and Youth", inter alia, has the mission *to support and provide a safe and decent employment*.

In accordance with the relevant legislation, MSWY exercises its activities in the development of the state policies in the field of employment, in the field of emigration and immigration for work purposes; and in the field of employment relations, inspection, safety and health at work. The Ministry is competent also for licensing and inspecting the activity of PEAs. In addition, the main responsibilities related to and within the scope of the PEAs activity in Albanian employment market are presented.

40 Protecting the Rights of Migrant Workers: A Shared Responsibility, 2009, [www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/publication/wcms\\_180060.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_180060.pdf).

Table 6. Institutional framework and respective responsibilities

Institutions	Responsibilities
Ministry of Social Welfare and Youth (MSWY)  Art. 28 Law No. 9668, Dated on 18.12.2006 "On Emigration of Albanian Citizens for Employment Purposes", amended by Law No. 10389 dated on 03.03.2011.	<ul style="list-style-type: none"> <li>It is responsible for providing PEAs with the official approval for disclosure of relevant employment offers.<sup>41</sup></li> <li>After evaluating the activity of private employment agencies, it sets quotas for selected agencies, when specific quotas are set by the host countries.</li> <li>Supervises all aspects of labour migration and as a result, also emigration through the mediation of PEAs.</li> <li>It is responsible for monitoring and evaluating the activities of employment offices, and the activity of PEAs.</li> <li>Drafts and approves active and passive programmes of employment and vocational training in the country for returned emigrants, who are registered as unemployed job-seekers in state and private employment offices.<sup>42</sup></li> <li>Assists in addressing the needs of the workforce in the country through measures of employment or vocational training through PEAs.</li> <li>Creates a regulatory legal framework for the PEAs, and approximates the employment services with European standards.<sup>43</sup></li> </ul>
National Employment Service (NES)  Law No. 7995 dated on 20.09.1995 "On the promotion of employment", amended by Law No. 8444 dated on 21.01.1999, amended by No. 8862 dated on 07.03.2002, amended by Law No. 9570 dated on 03.07.2006.	NES in cooperation with PEAs performs several activities aimed to: <ul style="list-style-type: none"> <li>Accomplish the right of all citizens resident in Albania for treatment with services in order to finding a lucrative job suitable for individual qualities and professional skills.</li> </ul>
The Regional Office of National Employment Service	<ul style="list-style-type: none"> <li>Regional offices of the National Employment Service make possible the issuance of foreign immigrants employed in Albania, through the PEAs or not, with the appropriate documentation of work permit.</li> </ul>
State Labour Inspectorate (SLI)  Decision No. 708. dated on 16.10.2003 "On the licensing and functioning of Private Employment Agencies".	<ul style="list-style-type: none"> <li>Prior to issuing the license to PEAs, the State Labour Inspectorate inspects the facilities, the equipment and the documents that are owned by the natural person/legal entity.<sup>44</sup></li> <li>State Labour Inspectorate conducts periodic inspections to determine the compliance of the activity of PEAs with the relevant legislation and, in cases of violations, it notifies the Licensing Commission, in cases of irregularities and in other cases specified in the decision.</li> </ul>
National Licensing Centre (NLC)  Art 38, Law No. 10081, dated 23.02.2009, "On licenses, authorizations and permits in the Republic of Albania".	<ul style="list-style-type: none"> <li>Handles licensing procedures, authorizations, permits, changes and revocations of PEAs.</li> <li>Maintains and administers the National Register of Licences of PEAs.</li> <li>Informs and advises applicants and the public of the procedures of licensing, authorization and permit issues to PEAs.<sup>45</sup></li> </ul>
Ministry of Internal Affairs (MIA)  Art. 30, Law No. 9668, dated 18.12.2006 "On Emigration of Albanian Citizens for Employment Purposes".	<ul style="list-style-type: none"> <li>Provides measures to prevent trafficking in human beings, by investigating in advance the activity of PEAs.</li> <li>Collects and exchanges information from the PEAs for the number, countries and length of residence of Albanian emigrants.</li> <li>Informs the returned emigrants in the border crossing points for reintegration services in the country such as PEAs<sup>46</sup>.</li> </ul>

41 Article 37, Private Employment Agencies, Law No. 9668.

42 Article 28, Law No. 9668, dated on 18.12.2006 "On Emigration of Albanian Citizens for Employment Purposes", [www.pp.gov.al/web/ligj\\_per\\_emigrimin\\_36.pdf](http://www.pp.gov.al/web/ligj_per_emigrimin_36.pdf).

43 Decision No. 708, dated 16.10.2003, "On the licensing and functioning of Private Employment Agencies", [www.duapune.com/blog/wp-content/uploads/Legjislacioni/Per\\_menyre\\_e\\_funksionimit\\_te\\_agjencive\\_private\\_te\\_punesimit.pdf](http://www.duapune.com/blog/wp-content/uploads/Legjislacioni/Per_menyre_e_funksionimit_te_agjencive_private_te_punesimit.pdf).

44 Ministry of Social Welfare and Youth, "National Strategy for Employment and Skills 2014-2020", [www.sociale.gov.al/files/documents\\_files/Strategjia\\_per\\_Punesim\\_dhe\\_Aftesim\\_2014-2020.pdf](http://www.sociale.gov.al/files/documents_files/Strategjia_per_Punesim_dhe_Aftesim_2014-2020.pdf).

45 Article 38, Law No. 10081, dated 23.02.2009, "On licenses, authorizations and permits in the Republic of Albania", <http://faolex.fao.org/docs/pdf/alb143551.pdf>.

46 Article 30, Law No. 9668, dated 18.12.2006, "On the Emigration of Albanian Citizens for Employment Purposes", [www.pp.gov.al/web/ligj\\_per\\_emigrimin\\_36.pdf](http://www.pp.gov.al/web/ligj_per_emigrimin_36.pdf).

<p>Ministry of Foreign Affairs</p> <p>Art 29 Law No. 9668, dated 18.12.2006, amended by Law No. 10389, dated 03.03.2011 "On the Emigration Of Albanian Citizens For Employment Purposes".</p>	<ul style="list-style-type: none"> <li>• In cooperation with the MIA manages and supervises all the aspects of labour migration.</li> <li>• Collects and disseminates information on labour legislation and social protection, protection of the rights of migrant workers.</li> <li>• Establishes and improves communication with the relevant institutions and structures of the host countries of Albanian workers whether employed by PEAs or not.</li> <li>• Supervises implementation of agreements with other countries on emigration for employment purposes and vocational training through PEAs.<sup>47</sup></li> </ul>
<p>The Commissioner for the Protection of Personal Data Art 29 Law No. 9887, dated 10.03.2008 "On Protection of Personal Data".</p>	<ul style="list-style-type: none"> <li>• The Commissioner for the Protection of Personal Data is the authority that supervises and monitors PEAs in accordance with the law on the protection of personal data, respecting and guaranteeing human rights and fundamental freedoms.<sup>48</sup></li> </ul>
<p>The Regional Directorate for Border and Migration (RDBM) Art 4, The authorities responsible for dealing with aliens, Law No. 9959, Dated 17.07.2008 "On foreigners".</p>	<ul style="list-style-type: none"> <li>• RDBM is State authority responsible at regional / local level, for the treatment of aliens arriving in Albania.<sup>49</sup></li> <li>• RDBM enables the issue of the relevant resident permit to the foreign emigrants employed in Albania, whether through the PEAs or not.</li> </ul>

Source: Author's work, 2015.

47 Article 29, Law No. 9668, dated 18 December 2006, "On the Emigration of Albanian Citizens for Employment Purposes", [www.pp.gov.al/web/ligj\\_per\\_emigrimin\\_36.pdf](http://www.pp.gov.al/web/ligj_per_emigrimin_36.pdf).

48 Article 4, Law No. 9887, dated 10 March 2008, "On Protection of Personal Data", [www.aspa.gov.al/images/ligji\\_9887\\_per\\_mbrojtjen\\_e\\_te\\_dhenave\\_personale.pdf](http://www.aspa.gov.al/images/ligji_9887_per_mbrojtjen_e_te_dhenave_personale.pdf).

49 Article 4, The authorities responsible for dealing with foreigners, Law No. 9959, Dated 17 July 2008 "On aliens", [www.infocip.org/al/?p=6037](http://www.infocip.org/al/?p=6037).



## 2.6 Ethical recruitment in Public and Private Employment Agencies

Ethics is an essential element for the functioning of employment agencies, especially the private ones that are directed towards realization of profit within a business activity. Employment ethics is part of their professionalism in fulfilling the role of these agencies and the function of meeting the interests of job-seekers with those entities that are looking for personnel.

In the case of employment of migrants, fulfilment of ethical and professional standards becomes even more important because monitoring of the mediation product in case of employment abroad, which is difficult to be achieved.

The existence of a legal framework is a prerequisite for meeting the ethical and professional standards. In this regard, Albania has shown an expressed willingness by aligning employment standards with those of the EU as well as by ratifying a number of ILO's conventions to promote decent work.

Inter alia, the Republic of Albania has ratified the Convention No. 143 on "Emigrant Workers" with focus on the protection of interests of workers even when they are not employed in their country and the promotion of equal opportunities and treatment for migrant workers. The provisions of this Convention, because of labour market conditions, impose the official employment agencies with the liability to regulate the conditions of migratory employment in accordance with bilateral, multilateral agreements and especially those which govern the free movement of workers.

Ethical issues are even more essential in the existence of abusive phenomena such as illegal trafficking and clandestine labour. Albania and other member countries are obliged to adopt all necessary measures, not only within the jurisdiction, but also in cooperation with other countries, they are obliged to deter illegal employment of migrants and eliminate abuses. In the framework of this Convention, Member States are obliged to complete the regulatory and legal framework concerning the punishment of subjects that have performed abusive practices.

An entity seeking to be licensed for the activity of employment mediation must meet certain legal requirements related to its field of activity which must be identifiable for mediation employment services and fulfil their activity in accordance with national legislation and bilateral agreements. Agencies are obliged to treat equally all job-seekers and not burden them with any financial obligation, directly or indirectly.

The Agency is responsible to assess the existence of abusive elements, conditions and potential risks and make sure that it does not mediate jobs that pose a risk and insecurity concerning life and health of employees or that present opportunities for abuse or discrimination. In fulfilment of their mission, the agencies are also required to *comply with the requirements of confidentiality and data protection*.

Processing of personal data during the recruitment of workers in public and private institutions is an essential part of ethical standards. This aspect is regulated by the rules laid down in Instruction No. 42, dated on 22.07.2014 "On the processing of personal data of Candidates for Work"; instructions issued by the Commissioner for Personal Data Protection.<sup>50</sup>

PEA has the right to *collect personal data from job candidates only when the purpose for which this data will be used is lawful, necessary and does not exceed mediation recruitment goal*. In any case, the PEA is obliged to inform the candidate of recruitment mediation, according to the requirements provided by law on the protection of personal data through a written statement privacy policy.

Under the meaning of this instruction, the terms employment agency and agent are defined as public or private institutions that provide private or public services of employment and mediation. This instruction regulates even the cases when the employer assigns an employment agency to request personal information about candidates and collects personal data of these candidates.

---

<sup>50</sup> For more information look at Table 13.

When the employer obtains personal information from the candidates, directly from individuals seeking employment opportunities or offered by employment agencies about their registered job-seekers, he must use the data only to the extent needed to evaluate the suitability of the individual employment. Such information must not be used for any other purpose unless the individual has given express consent. When an employer contracts a third party as an authorized agent to act for recruitment purposes, the employer shall take all the measures that the third party refrains from using the data for other purposes, different from the original purpose of processing.

According to the latest report<sup>51</sup> published by the Commissioner for Personal Data Protection, in 2014 the Commissioner's Office has taken 11 decisions for different controllers corresponding to 19 administrative sanctions with fine. What is worth mentioning is the fact that none of these sanctions has been referred to Private Employment Agencies. This leads us to think that: either these employment agencies fully respect the law on protection of personal data or the inspections in these agencies are rarely conducted and therefore no problematic case is identified.

---

51 Commissioner for Personal Data Protection, Annual Report, 2015, [www.idp.al/images/autoriteti/Raporte\\_Vjetore/RAPORTI\\_VJETOR\\_2014.pdf](http://www.idp.al/images/autoriteti/Raporte_Vjetore/RAPORTI_VJETOR_2014.pdf).

## 3. Private Employment Agencies market assessment

### 3.1 Sector overview

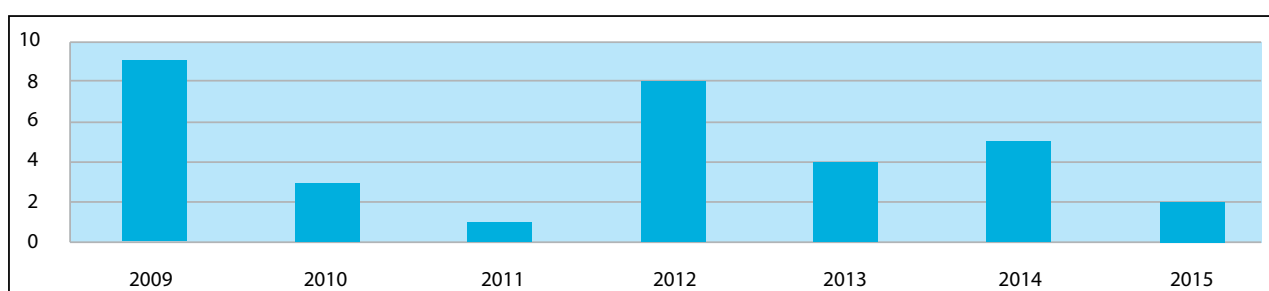
The activity sector of Private Employment Agencies (PEAs) and management consultancy companies in the human resource market is not very well developed in relation to the various business activities that provide services to enterprises. The number of businesses in the sector is almost negligible compared to the total number of businesses operating in the country. At the same time, in this field and sector there is missing published data. There are no public sources or statistics for the number of emigrants who have left through private employment agencies abroad because the PEAs do not apply the law in force by failing to deliver data.

However, employment agencies are necessary to maximize competition in the labour market. The first countries that welcomed competition in the labour market are Australia and the Netherlands, which today find themselves in a well-regulated market through legislation, but not only. Self-regulation of the labour market has made today, these and other countries, better models of labour market functioning, PEAs operating and migration movements. Today, Albania cannot be considered as part of best practices and despite many employment strategies and new management practices in the labour market there is still room for improvement.

The market of Private Employment Agencies is geographically extended to a narrow circle, because it mainly operates in the capital and its suburbs and in other major cities in the country. The Agencies that provide mediation services in the labour market must be licensed under article 100 and 19 of Law No. 7961. As of 2009, the regulatory entity responsible for licensing has given a total of *38 licences for mediation in the market*, of which 32 are provided for the first time, while the remaining are renewals, re-applications. From a total of 38 licences, 10 licences were given to natural persons, who currently either do not hold the license for reasons of revocation, or have closed the business, or are attached to another company as owners or otherwise.

The following is a chart with the number of private employment agencies or individuals licensed for the first time over the years.

Figure 3. Licences issued over the years



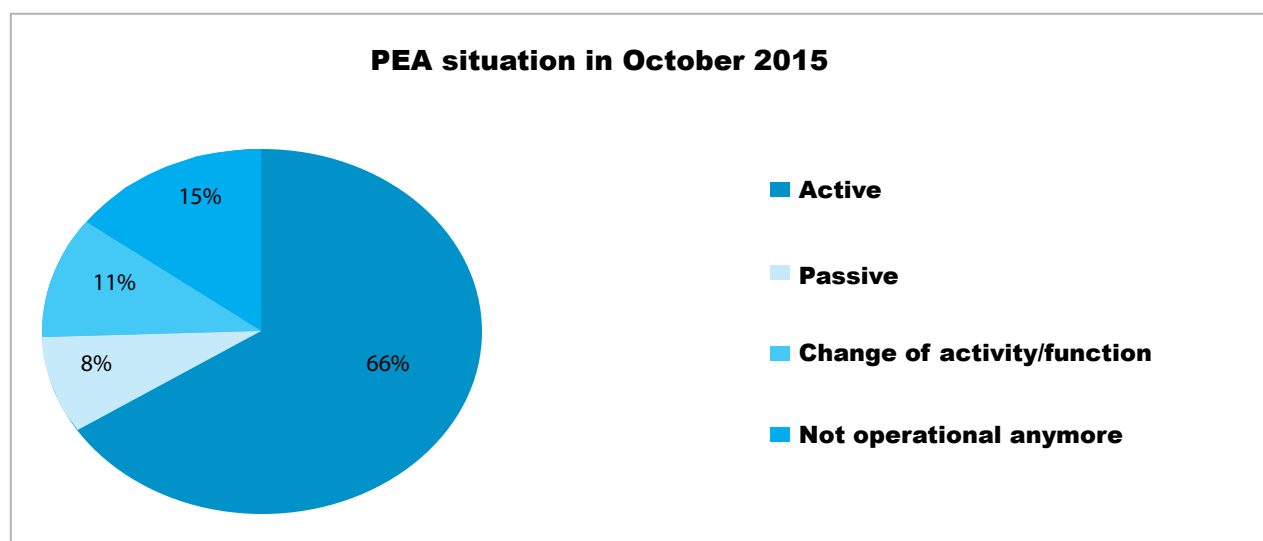
Source: Data from the National Licencing Centre, author's work, 2015.

However, as explained in the methodology, beyond the secondary sources with processed data, an attempt is made to analyse also the informal market of employment agencies, with the aim to reach this market and registered companies and influence the formalization of the service performed by unregistered subjects.

During this study, it is aimed the data collection over years in order to reach conclusions as clear and complete, even within the sample of the study. Through researches conducted in the field, internet sources and various advertising companies, there have been identified the overall total sum of 68 active employment agencies for the period 2000–2015 (opened and closed at different time from one another) covering this service, even though some of them did not consider mediation in the labour market as the main activity of their business.

In order to understand and analyse the status of these companies official resources are used such as the National Registration Centre, National Licensing Centre, numbers and email addresses for contacts with these companies, social and professional network profiles etc. According to the aforementioned official sources, *in 2015 there were 47 Private Employment Agencies, of which only 28 licensed from the National Licensing Centre and the remaining 19 active in the market, but not licensed for the service.* It is important to emphasize that some of these companies do not provide mediation in the market as their main activity, but as a secondary activity. Yet, even when this activity is secondary, the companies differ among them in licensed and unlicensed ones. Parts of the analysis are licensed and unlicensed companies. During this study, several PEAs rejected providing mediation service. Such dubious replies raise questions about the PEAs existence operating without a licence. As explained above, in parallel with interviewing several employment agencies, interviews were conducted also with individuals who have left Albania for employment through both kinds of companies and have returned to Albania through these companies, thus serving as a means of measurement of performance of these agencies. During 2015, 47 companies were present in the market. Based on them, an effort is made to have a sample as representative as possible. In October 2015, from 47 companies, some of them (5 PEAs) have abandoned the market intermediary function and have changed their activity, some others (7 PEAs), even though licensed by the NLC, no longer operate in the market as no information is found about their function as employment agencies and some of them (4 PEAs) have stated that they do not perform any activity and that the company has switched to the passive status. Figure 4 is a graphical presentation of changes in the market in 2015 and of the current situation of mediation market in the labour market mediation. *In October 2015, 31 companies remain active and part of the operational market.* This figure represents the sample of the study.

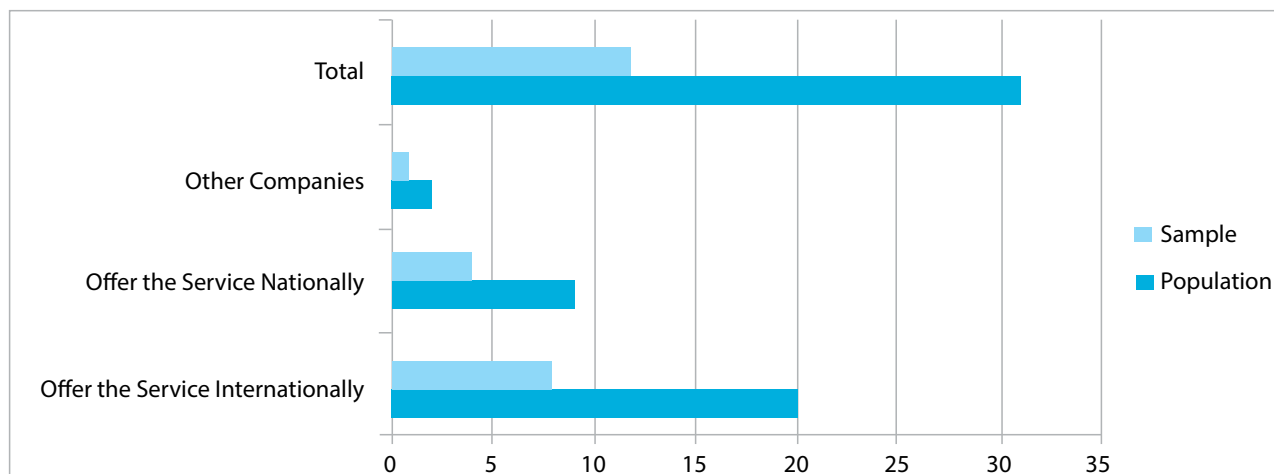
Figure 4. Current situation of labour market mediation (October 2015)



Source: Author's work, 2015.

The sampling quota, for the companies in question, is evaluated as appropriate at 42 per cent with a proportional representation according to the type of companies in the analysis. The table below rates 31 companies active in the market and represents an assessment of interviews that are conducted with Private Employment Agencies and other companies.

Figure 5. The sample of the study conducted in the framework of the Private Employment Agencies



Source: Author’s work, 2015.

The primary data of respondent companies allow us to process some statistics about the sample which are important also for the functioning and services of the mediation market in the labour market. The table below gives data on the number of companies established and operating in the relevant market during the time under consideration. The data are presented in cumulative form, considering only the years when there have been changes in the number of companies operating in the market through establishments or formalizations of companies.

Table 7. Companies operating in the market (in cumulative, by years of their creation)

Year	2000	2005	2006	2009	2012	2013	2014	2015
No of operating companies	1	2	3	5	8	11	12	13

Source: Author’s work, 2015.

It is to be noticed the fact that all companies that were created before and during 2009 were licensed by the National Licensing Centre. Meanwhile, as regards companies created during the period 2010–2015, it seems that 50 per cent of companies, which main activity is mediation in the labour market, have not obtained a licence for the service they provide. According to the conducted interviews, 50 per cent of these companies operate in the international market by deploying Albanian citizens abroad. Also, based on research of secondary sources and interviews with Albanian employees who left for employment abroad, 75 per cent of these agencies are not licensed to operate in the international market.

The **form of ownership** is analysed as well for the 13 respondent companies. In the case of Private Employment Agencies it seems that it prevails the trend of them being *physical persons* or *limited liability companies based mostly on the fact that these businesses emerge as an initiative of entrepreneurs and family businesses*. Assessing the employment market development in Albania, companies have maintained the same form of ownership.

At the same time, it has been collected information about the number of employees in the respondent companies. According to EU<sup>52</sup> classification about the business size in proportion to the number of employees, some Private Employment Agencies are classified as medium businesses, while the

52 Classification of PEAs in made base on EU classification, [http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition/index\\_en.htm](http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition/index_en.htm).

prevailing ones are small businesses. However the overall framework shows that in the context of a complete formalization of the market and intermediaries in the employment market, these companies have the potential to develop further and increase their size as regards the number of employees, turnover or profits of the company and number of mediation cases for third party in the labour market.

The table below presented specifically data on the two elements discussed above, form of ownership and business size.

**Table 8. Business size by PEAs type of ownership**

Form of ownership	Natural person	Limited Company (Ltd.)		Anonymous Company ( S.A.)	No response
No of employees	3	4	3	2	1
Size of business	Micro business	Micro business	Small business	Micro business	Micro business

*Source:* Author's work, 2015.

Before analysing the information obtained by Private Employment Agencies and other operators in this market, it is important to examine extensively even the answers of the respondents concerning the geographical area of their operation. As for agencies operating in the intermediary market, it results that 5 of them operate only within the country and 8 other operate always abroad or have had cases of providing employment abroad. Among the latter, two agencies provide mediation services in the foreign market especially. The rest of the companies operate only in the domestic market by offering mediation services in the labour market only to their client companies or their partners.

**Table 9. Categorization by geographic area**

Type of activity	Main activity "Recruitment and Human Resource Management"		Other main activity	
	Only with the country	In the country and abroad	Only with the country	In the country and abroad
No of companies	3	8	2	0

*Source:* Author's work, 2015.

Further the data obtained from interviews of Private Employment Agencies have been elaborated, by analysing the recruitment process with the respective components and other important data.

## 3.2 Assessment of PEAs practices

The Assessment of Private Employment Agencies practices was done through the conducted interviews and secondary researches in the field as well as from other sources. The interview is organized by group of questions with the aim of further restructuring the practices used by these agencies.

The following analysis handles issues such as: the market access of private employment agencies in relation to individuals; mediation service in the labour market (including the process of recruitment / selection, the possible preparation prior to the departure of individuals in the host country, the contract with the relevant agency or for the job position and the follow-up of employees experience abroad or within the country from the corresponding agency employment): the gender of respondents in order to analyse the effect of gender in the process of finding a job abroad, and as well licensing and further reporting by the Private Employment Agencies after their licencing.

### 3.2.1 Questions on market access

The approach of businesses in mediation service in the labour market is important, as a first step towards the continuity of this activity. Important part of the analysis consists in the tools used to attract potential clients, the approach to the gender of applicants and the evaluation of host companies in relation to candidates.

The Private Employment Agencies, part of the study, acknowledge that they use different tools to reach their final customers. Among them, more than 15 per cent of them do not have their active websites. However, they are found on other websites that provide advertising services, publicity, etc.

Employment opportunities, vacancies and the possibility of link with the respective agencies are published by PEAs on their websites, social networks and employment portals.

The published information generally gives a brief presentation of the company, description of the job and criteria to be met by the candidate.

**Table 10. Tools used by the Private Employment Agencies to attract candidates**

Method	PEA answers (%)
Advertising	76.9
National employment services / employment offices	38.5
Other private employment agencies	0
Personal contacts and recommendations	92.3
Educational institutions	61.5
Job fairs	61.5
Use of own database	38.5
Interested persons approach by themselves	53.8
Other (LinkedIn)	15.4

Source: Author's work, 2015.

The approach of PEAs towards different candidates and in particular towards their gender does not constitute a difference in the practices among the agencies. Generally, these agencies treat equally and are equally careful to externally or internally employment of feminine and masculine gender. The respondents from agencies part of the study claimed that these agencies provide the same service for both the male candidates and the female candidates. Most important is the widely expressed opinion by PEAs and migrant workers employed through PEAs that females do not require specific treatment throughout the application process.

Meanwhile the assessment of the conditions of the host companies for candidates relies almost exclusively on the terms of the contract, external control and communication of the latter with the agency. Some of them said that they have hired candidates even through collective contracts and in these cases the employee is more protected than the employer, as he/she is provided specific protection and working conditions.

An important consideration associated also with the institutional functioning of the system based on the above figures clearly shows that interaction between the private mediation sector in the labour market and public sector remains very low. Only two fifths (38.5%) of respondent private agencies considers labour offices as a source of potential candidates. In Albania, the informal approach seems to be still the prevailing one to attract new candidates, a practice that is applied by all private employment agencies in the country.

At the same time it is observed that there are no associations, which may group agencies that offer intermediation in the labour market, as their primary activity, so as to share not only their experiences and difficulties encountered in entering the market but also the possibility of unification to propose appropriate policies and incentives for this kind of business. The lack of a community of these companies is an area which needs coverage and improvement, as this may be one of the most effective forms to increase the role of these agencies in the labour market and to expand the market by empowering existing companies and opening new companies in the market.

### 3.2.2 Employment mediation service

#### a. Recruitment/Selection

Recruitment and selection include a two-way operation which is based on the functions of employment agencies themselves: individuals and employment companies. They are both tested whether they pass certain filters to test credibility, the ability to perform the work and offer the work and other qualities.

The identification of the most suitable candidates for the respective work positions and for the possibility of employment abroad is done through several processes. All respondent PEAs stated that the first step of the selection is done through the CV examination. Here, special attention is paid to the diploma, formal certificates and work experience. Further the selected ones move to the next step, which is the interview. More than four fifths (84.6%) of the agencies claim that they apply tests on their candidates in order to select the most appropriate ones. The latest trend to identify quality and reliable candidates are logical tests, personality tests and psychological tests, which enable the profiling of candidates.

The most valued skills by PEAs, in the selection process, are education, experience and availability of certificates. Among personality characteristics mostly preferred are seriousness, openness, adaptability and willingness to work. Recently the so-called "soft skills", which include communication, interaction and initiative are getting more and more importance in the labour market.

Employment generally is offered for short and long term periods, with differences depending on the occupations. Long-term employment contracts are offered mainly in health professions such as physiotherapist, nurse, doctor and engineer. Short-term contracts of employment include hotels and tourism sector for positions such as customer service, hotel, bar–restaurant manager, hostess, waiter and salesman. All the agencies acknowledge that they find the employer through internet publications and none of them has an agreement with the PEAs in the country of destination. However, they assure that security of the vacant positions is undisputable as they initially contact the employer and then they search and make online verification of the employer's company. The Private Employment Agencies in Albania claim that the employment profiles in foreign countries most difficult to meet or be taken advantage by the Albanians, are the professions requiring a specific professional qualification as mechanics, technicians, tailors or professions requiring a higher, continuing and updated qualification, as doctors or engineers.

Meanwhile, the main clients of the agencies, which offer international employment service for Albanians, are businesses related to the hospitality-tourism activities, medical services, etc. However, there are also practices or market entry efforts by companies themselves that search employees through partner companies in Albania or through websites and social networks. This form of reaching employees constitutes competition for private employment agencies in Albania and is carried out for the main purpose of avoiding the payment of fees to private agencies. The same phenomenon occurs passively in Albania, in large companies, corporations that welcome or seek foreigners for employment opportunities in Albania. These corporations do not seek mediation services by private agencies. Instead they call for support directly from the respective branches in different countries of the world to recruit for vacant positions in Albania. At the same time, they employ legal experts and consultants for employment procedures and residence permits in Albania. Very often there are cases of cooperation of state institutions, providing these documents, with these companies, given that their role in the country economy and in the employment of these individuals is high.

Linked again with both market participants of mediation in the labour market, according to employment agencies, mainly the "burden" of service costs is attributed to the employer company. However, about a quarter (23.1%) of agencies said that applicants / candidates pay a mediation fee, which is mostly administrative cost for completing the process. However it depends on the employment contracts and the contract signed by the private employment agency. At the same time, individuals often pay



themselves for their medical examination and assistance with documents required by the agency and the host company and emerge as well cases of travel and accommodation expenses which are not covered or are not reimbursed by the employer in the countries of destination. According to the PEAs each case depends on the specific contract signed and agreed terms.

#### b. Information about the preparation phase

The preparatory phase in the process of employment abroad is seen important for the progress of work at the destination country and for the psychological well-being of the individual. The Private Employment Agencies in three fifths (57.1%) of cases provide trainings ahead of departure of candidates. These trainings include language courses and legislation courses in the host country. The rest of PEAs offer mostly preliminary meetings and orientation sessions, where in addition to the detailed information that they offer, they study the stress level, cultural shock and respect towards the programme.

The problem in this regard, is the fact that almost all respondent agencies admit that they do not update the information provided in trainings more often than once a year. Only one agency said that the information it provides is updated in real time, 12 hours before training and the information is reviewed by the appropriate supervisor responsible for the programme.

Information on the employment country is mainly obtained as given in the contract and general information offered by public resources such as Internet. The partner agency or company sends the basic information and it is PEAs responsibility in Albania to guarantee the legitimacy of information through references from authorized offices. Only an agency acknowledges that it conducts such verification.

#### c. Contracts

Contracts that private employment agencies conclude with their applicants are generally irregular. Most of them are incomplete, not enriched with the legal basis on which the contract must rely and the contracts do not specify on the legal basis on which the country operates. It happens that contracts contain very little information and appear on a single sheet.<sup>53</sup> In the case of migration for employment or recruitment of foreigners in Albanian companies, about three fifths (57.1%) of PEAs declare that they provide client contract in two languages: one in Albanian and one in English or in the language of the country of destination (host country), but they do not specify which of both contracts prevails or whether they both have the same legal force.

All the respondent PEAs claim that they use the same type of contract for each individual, regardless of gender, age and ethnic origin. PEAs declare that the contract indicates the following information about the work: responsibilities and obligations, work conditions, net-salary, insurance, living conditions, working hours, sick leave and annual leave conditions, overtime payment and compensations. However, this remains a matter for elaborate investigation because their applicants do not declare the same.

#### d. Follow-up Process/Client

The follow-up process from the beginning of the work of migrant workers is also important for the mediation progress, in order to increase the security of service and reliability of successful work mediation cases. The case of employment abroad are of greater value, because this type of service can become a source of trafficking in human beings, abuse of human rights etc.

In the conducted study, a little less than three quarters (71.4%) of PEAs said that they follow-up the work and conditions of Albanian emigrants in other countries. 1 in every 4 private employment agencies acknowledged that there had been cases of passport of emigrant workers being retained

---

<sup>53</sup> According to specialists in the Department for Migration and Work Permits, Regional Employment Offices in Tirana.

for a few days because of bureaucracy in issuing the necessary residence permits. If this situation results problematic and the emigrant worker's passport is held without a reason for a longer period, a quarter (25%) of the agencies said they would discuss directly with managers to clarify the situation to the benefit of the candidate, a quarter (25%) of them said that they would reimburse payments they had made for the mediation and half (50%) of them said they would make a denunciation to the competent authorities.

Only two (15.4%) from the private employment agencies have acknowledged that there have been complaints from employees abroad because their expectations change frequently upon arrival in the destination country. The cultural shock, for at least the first three months, is too high, and these often results in subsequent appeals. On the other hand, all the other agencies have expressed they have not received any complaints from employees abroad, a statement which is questionable.

Private Employment Agencies during the survey were also asked about the possible reactions that they had or would have had in case of complaints over abuse and discriminatory treatment of workers deployed abroad. The chart below shows data on percentage of positive responses towards actions taken in case of problems.

Previous experience of employment agencies shown that in similar situations in the past, they have addressed public institutions such as the Ministry of Social Welfare and Youth and the diplomatic representation in the country where the employees have been employed, but ineffectively. This is a good example of lack of coordination of the activities of public and private sector and lack of a single path for coping with the problems.

None of the agencies acknowledges that in case of problems it would not know what to do or would not take any actions. Repatriation assistance and notification of authorities in the country of employment of the client are both most common selected actions from the companies. While only 50 per cent state that they would offer a new job to the person in question.

**Table 11. Actions taken in case of complaints / problems**

Feedback	Percentage of positive feedback
Informing Albanian Authorities	50%
Informing diplomatic representatives in the country where the worker is deployed	50%
Providing legal support	50%
Providing repatriation support	66.7%
Involving authorities of the respective country	66.7%
Offering a new job	50%
Do not know what to do	0%
Do nothing	0%

Source: Author's work, 2015.

## Further Discussion

### Example 1.

The keeping of the passport by the employer, without the possibility of the employees to take it voluntary, is not a practice allowed. Instead it is sanctioned. The passport of the individual can be taken only in case of assistance with documentary procedures and document security, provided that the employee is able to get it whenever needed. Case: In the United Arab Emirates, Ministry of Labour prohibits the keeping of the passport without recognizing the right of the employee to take it. Such practices have occurred in this country also with Albanian citizen.

## Example 2.

One of the problems mostly encountered and declared by private employment agencies is the escape of individuals employed abroad from the workplace in order to flee to another country to emigrate illegally. These cases are particularly sensitive especially in employment in hospitality –tourism, cruise ships, etc. Private Employment Agencies say they feel powerless to identify such cases before they happened. Agencies claim that, in cases of individuals who are not Albanian citizens, those who have escaped have left behind even personal belongings and documents of identification.

### 3.2.3 Gender and PEAs

Most of the Private Employment Agencies refuse to provide statistics about their candidates employed abroad. Personal data on the candidates certainly are protected and must be kept by the PEAs, but the number of those posted abroad for employment is a statistics, which should be reported for transparency to State institutions as well as to the public. One in every two agencies states that it had no precedents of female employment abroad because the latter are sceptical and distrustful. However, other agencies that have had cases of female employment abroad, say that women migrants employed abroad are generally accommodated in the field of tourism or in positions that require professional qualifications such as hairdressers or seamstresses or nursing positions. Positions in which women are more required than men are precisely those of customer service, hostess and care for the elderly and children (baby-sitters). Therefore, women are more vulnerable than men since these types of occupations are more difficult to monitor and inspect.

So far the respondent PEAs have had no complaints or problems faced by women employed abroad. Some agencies declare that the problems, in a few cases, are raised by the family members in Albania, who under the influence of patriarchal culture may have claimed uncontrolled return, rather than return by the employer. Moreover, PEAs consider overseas employment of women to be problem-free because security in the countries with which they cooperate is at maximum level. Some of them say that there is no potential risk to worry about in terms of female migrant workers. Meanwhile half (50%) of PEAs declare that the agency has all the knowledge required to combat the risks that may arise from the women employment abroad, because they have a long time operating in the market and collaborating with their partners.

It must be said that all agencies operating with other countries beyond the region, emphasized that they offer the same contract to females and males. In most cases, they enjoy the same work conditions. Only in relation to the above-mentioned professions where women are preferred more than men, there may be offered better and more favourable conditions to them such as a higher salary.

### 3.2.4 PEAs licensing and reporting

The reporting process of PEAs remains dim and vague. More than half (54.5%) of them admit that they are not obliged to report to any government institution. About a third (30.8%) of them report (some of them with personal initiative, not by obligation) to the Ministry of Social Welfare and Youth at least every 6 months and keep relations with the High Commissioner for the Protection of Personal Data. While only one agency claimed that it delivers accurate data also for the General Directorate of Police and Serious Crimes during the search of persons with criminal precedents and that it cooperates closely with the Ministry of Justice on the issue of criminal record and it also reports regularly to the respective foreign embassies.

All PEAs that have participated in this study say that they can make public their offers without having them reviewed or approved by any government institution. This statement leaves room for further discussion because the law "On emigration of Albanian citizens for employment purposes" clearly states that job offers before being published, must be approved by the relevant government institutions.

Regarding licensing, more than four fifths (84.6%) of agencies stated that they possess a national license, while about a third (30.8%) said that they possess an international licence as well. PEAs licensing process is considered simple, formal, necessary and effective. However, licensing the business in the sector of employment agencies does not require any specific training of their staff except for the technical director and no initial financial capacity is required. The latter ones leave room for review and modification by the responsible state institutions and organizations in the sector because in terms of lack of demand for specific criteria, anyone can offer employment or mediation in the domestic and foreign labour market, regardless of professional knowledge. Another important aspect of the licensing process is that although the law states that PEA need to renew their licence every year, the respondent agencies state that the licence is permanent and there is no need for renewal.

Almost two fifths (38.5%) of PEAs show that the inspections related to their activity and operation of the company have not been numerous and specific control cases have focused mostly on tax control. A quarter (25%) of companies, part of the survey, have been inspected even by the Labour Inspectorate and the Commissioner for the Protection of Personal Data, while only one agency stated that it had been monitored also by the inspectors of the respective municipality.

### 3.3 Assessment of experiences of emigrants employed in the country and abroad

The choice of some professionals to work in another country is a need in a difficult labour market; to some it is just a desire for a better living standard and to others it is a different way of living. The gaining of a new experience and higher salaries are the main reasons why individual professionals or not decide to find employment in another country.

In Albania, the most frequent cases of employment abroad through Private Employment Agencies are in Middle East, Western Europe, the United States, Canada and Australia. The most common employment profile has been the one of tourism. Statistics concerning both genders show a higher tendency of employment abroad of the age group 20–45 years. Three quarters (75%) of the respondent Albanian emigrant workers state that before cooperation they have checked if their employment agency had a license to operate. Very often methods and security of PEA license are not specified, and people acted based on the recommendation and positive impression for one agency from someone who already had an experience through them.

The requirements of Private Employment Agencies for the potential candidate concern education and work experience. Some of the candidates had to pass through an English language exam or another language, due to the fact that for different specific job positions average language proficiency is a requirement, and basic knowledge of English is generally a required criterion.

As above mentioned, even though most of the trainings organized by the Private Employment Agencies do not update their information adequately, the positive aspect of the trainings offered by these agencies are offered before their departure to the foreign country. Trainings include several elements and the most important ones are summarized below, by assessing even the experiences of the respondent persons. The training provided are presented as follows, based on the respondents interviewed about the respective topic.

Table 12. Trainings offered to Albanians employed abroad

Training typology	No. positive answers
Language training	2
Cultural orientation training	4
Employment rights training	4
Working capabilities training	4

Source: Author's work, 2015.

The fact that the interviewed have accepted that after their selection they have been clarified and informed about the position and procedures to be followed in the respective country is an optimistic result. This is a good proof of good management and information distribution from Private Employment Agencies. Half (50%) of workers have declared that the contract they signed with the PEA was in Albanian, a fourth (25%) declared that the contract was in two languages (Albanian and English), and a quarter (25%) admitted that the contract was given to them only in a foreign language and was explained in Albanian. Beside this, they all declare to have understood all articles and sub-articles included in the contract.

Concerning the terms of the contract, the emigrant workers interviewed for the purpose of this survey state that there were no discrepancies. The working hours and the salary received by them have been as specified earlier in the contract. Concerning the work conditions, living conditions, the attitude of the supervisors and the freedom of movement, Albanians seem to be relatively satisfied. They have had some reserves about the violence/harassment in the working place and safety at work. However, females acknowledge that they are treated equally in their job as males.

A common phenomenon, especially related to workers employed in the Middle East is the keeping of passports at the first moment of work permit issue, but what is unacceptable is the keeping of the passport by the company until the end of the contract. This is an action contrary to the human rights law. Another issue has been the unilateral review of contract terms, which is further followed by the resignation of the candidate because of failure to agree on the new terms. Only one such case is found during the survey. To conclude, a fourth (25%) of the workers abroad are not satisfied with the private employment agency and that state they would not apply again with the same agency.

Unlike Albanian candidates employed outside the country, the foreign emigrants employed in Albania mainly are hired for highly qualified positions, mostly management. The main sectors in which these latter are recruited are banks and telecommunications. Generally, most of them come to Albania attracted by salaries, which are among the highest and most competitive in the market.

Beyond cases of highly qualified individuals for high job positions, the phenomenon of collective employment is present in the country, in areas such as industry, where most of the cases are identified in the mineral extraction and processing industry. In these cases, it has been noticed that companies have not operated through employment agencies; instead they have used other sources such as existing branches of the same company in China or Turkey.<sup>54</sup>

Private Employment Agencies admit that foreigners alone contact them for employment mediation and it rarely happens for PEAs in Albania to conclude an agreement with PEAs in other countries for exchange of candidates. Yet, the number of foreign workers employed in Albania is very small and almost insignificant to have proper statistics.

### 3.4 Evaluation of the institutional framework of the sector

The public and private operators in the mediation labour market in Albania are characterized by an ineffective organization in relation to some of the policy goals pursued in the past 15 years. The discrepancy of the labour market with the education and the training of individuals, and in particular young people today, is the result of a long period of market inefficiency and actions or relevant strategies in this market for its regulation and management. However, in the current situation, every step taken in the context of improving the sector will require a period of testing, implementation and impact to assess whether their effects have been as expected or not. Within the study it is important

---

54 The Head Department at the Regional Directorate of Border and Migration said that there are foreign individuals coming from China or Turkey, who are employed in the country in the mining sector. These professionals penetrate in our country through the existing branches in Albania of the same company in their country. Their employment is achieved through intra-company transfer or the branch plays only the role of mediator in employment.

to address the institutional framework and its operation beyond what has been specified in the legislation, even though not fully.

The analysis of the institutional framework and beyond, in this case includes treatment in terms of state structures, private structures and other market stakeholders who are part of the total framework such as legal consulting companies or independent consultants.

The PEAs involved in the survey have been questioned about the relationship with some of government structures and the relevant lines associated with the operation of this type of business. Their claims do not show a strong link between the relevant structures, in particular in the framework of monitoring and control.

*National Employment Service*, which is an independent public service with the status of a central state administration, works through regional and local employment offices, and regional vocational training departments. However, for many years the trust of citizens and the activity of this administration have been very weak. Only recently, thanks to the initiatives of the government, an increasing number of unemployed persons appear before the employment offices. However, this did not serve to fill the space between the vacant positions and the individual qualifications. It seems that the structures are functional at management level of job offers within the country and job offers found due to agreements and cooperation of government and institutions with large companies and businesses interested in this opportunity. This is not observed in the case of the PEAs and their offers.

The PEAs say that they do not always notify of the vacancies the regional employment offices, organic part of the NES. They are not required to necessarily report. At the same time, their job offers do not need to be approved by any institution. Job offers abroad by agencies do not pass through any governmental structure; instead they are organized only through agencies and host companies. Meanwhile, the agencies do not report any list of individuals they have managed to mediate an employment abroad and it is not known whether emigrants who leave Albania for work declare this information to the responsible law enforcement institutions. Even though of little impact (unable to have official figures for Albanian migrant workers left during the recent years), unemployment statistics are not updated with this information and still there is data inaccuracy about the job-seekers.

Private Employment Agencies are not offered any advantage in the country in the context of procedures for aliens who can be employed in Albania. The Regional Employment Service located in the capital which covers the largest activity of PEAs and number of foreign applicants for work permits, states that it rarely happens for a private employment agency to appear on behalf of a foreign employee and that the institution does not have any kind of cooperation or agreement that may affect this procedure or facilitate the work of PEAs. The Department of Migration and Work Permits confirms that the process of granting work permits to emigrants does not require information whether the latter are employed by the PEAs or not. This makes it impossible to assess the labour market and employment resources in the country. Under the legislation in force, emigrants have eight days after their employment to apply for a work permit and they rarely do so because of lack of information. Faced with such situation, they are obliged to exit Albania and to re-enter in order to apply for a work permit.

According to specialists this problem may be easily with the establishment of information offices in the airport Mother Teresa or customs offices at the border.<sup>55</sup> Lawyers and other consultants say that Private Employment Agencies generally do not have legal knowledge or adequate staff to carry out the procedures of obtaining work permits and residence permits for foreign citizens in Albania. They claim that often they are contracted by large companies and foreign individuals, who are informed either because of their acquaintances or advertising, to obtain legal consulting service for both processes.

55 According to the Interview with the Migration Specialist and Work Permits, November 2015.

*The Regional Directorate of Border and Migration* is also an important institution that is not directly linked to PEAs, or that does not have a required or enabled relations with PEAs. This directorate is the one providing emigrants with residence permits and conducting frequent checks with regard to companies employing these workers. The process of obtaining the relevant documentation goes through a careful procedure of investigation and research when replying to applications. However, further procedures are not the main problems encountered by these structures. Generally, the lack of basic information, despite online procedures publications and information and application centres, is considerable and it calls for due consideration of specific cases. During the survey conducted in the field and through interviews it was noted that private employment agencies are not informed of the basic procedures to obtaining documents in Albania for foreigners. The only structure which approached the Regional Directorate for Border and Migration is an Italian structure, National Institute of Citizens' Assistance, newly created, for to support Italians in their legal procedures when staying in Albania. The leaders of this institution generally claim that foreigners who approach their offices do not approach through Private Employment Agencies.

An important organization under the Ministry of Youth and Social Welfare is the *State Labour Inspectorate*, which mission is to control, find, counsel, inform, formulate, mitigate conflict, prevent and punish. More specifically, the Labour Inspectorate is institution inspecting PEAs, like all other entities, in terms of legislation in relation to employees including the employment contract, insurance of employees, work conditions and the implementation of Decision 708 dated 16/10/2013 approved by MYSW and Ministry of Finance. Supervisors of the Inspection Sector for Labour Relations state that there have never been any complaints from candidates employed by the PEAs against the employment agency. However, SLI maintains contact with the Labour Inspectorates of other countries but not exclusively for private employment agencies. While according the decision No. 708, the State Labour Inspectorate must conduct periodic inspections to determine the compatibility of the activity of the agency with relevant legislation and, in cases of violations, it must notify the Licensing Commission. The absence in monitoring the activity of these businesses is not to be appreciated, because the business activity is related to the management of human resources and employment mediation in particular, therefore control over the procedures should be more present in monitoring practices.

Legislation is considered almost complete, and comparable with other legislations abroad, but again problems continue to be part of the work activity of relevant structures due to bureaucracy and lack of information. The lack of a database, as a control system for the reliability of companies hiring emigrants, brings many problems up to cases of duplication of emigrant's data.<sup>56</sup> Moreover, procedures followed by this respective office at the Regional Employment Service, for foreign individuals are not the same. Thus, Kosovo Albanians, EU citizens are provided simply with an exemption certificate whereas other emigrants must obtain a work permit. This procedure is the same when obtaining the residence permit. The procedures are divided into categories but the document received at the end of the process is the same. In absence of a functional platform which will facilitate procedures, the Regional Directorate for Migration and Border encounters workload and procedures which have to be performed simultaneously. However, here investigation continues in order to release the document, in a detailed manner and the records of individuals regarding the regularity and irregularity of their stay in Albania are fully registered.

In any case, operational issues follow the functioning of the general framework of the system, even though they are its integral part. The missing coordination of public and private structures is necessary. Good practices of implementation of strategies and actions to improve the system will be treated further in this document.

---

56 Specialists in the regional employment office in Tirana say that they have had problems with companies that have hired Syrians, since are found people registered with the same name, age and working position.

### 3.5 Comparison of the current state of PEAs with national and international legislation

Table 13. International Labour Standards and current state

Criteria/Indicators	Standards	Legal framework	Current state	Recommendations
Legal compliance: Registration and licensing of the business.	<p>Art 3(2) C.181: The legal status of private employment agencies must be in compliance with the legislation and practice in forces.</p>	<p>Law No. 9320, dated 25.11.2004 "On ratification of the Convention No. 97 ILO (ILO) "Migration for Employment" revised".</p> <ul style="list-style-type: none"> <li>- Provide adequate and free service.</li> <li>- Provide accurate information.</li> <li>- Take action against misleading propaganda.</li> <li>- Provide adequate medical care for migrant workers and their families.</li> <li>- Treat migrant workers with the same favourable conditions as nationals.</li> </ul> <p>DECISION No. 708, dated 16.10.2003: PEAs are established under the legislation in force, regardless of other types of business.</p> <p>Private Employment Agency can be registered as private natural/legal person, and perform their labour mediation activities through these services:</p> <ol style="list-style-type: none"> <li>a) information, advice and assessment of requirements and applications for employment mediation;</li> <li>b) job positions search;</li> <li>c) mediation to define the conditions and employment relations link between job-seekers and employers.</li> </ol> <p>For the employment of Albanians abroad, the agency implements all the Albanian bilateral agreements with relevant countries.</p>	<p>In Albania the Private Employment Agency does not pay any registration fees when applying for a license for mediation in the labour market.</p>	<p>It would be suggested for Albania to have a registration fee for licensing. In this way, it can serve as a small barrier ensuring that not every individual can enter the market of employment mediation.</p>
	<p>Guide to Private Employment Agencies, ILO (2007) In a registration or licensing procedure it is very common for PEAs to collect a registration fee; The registration fee covers the administrative expenses of the licensing agency and can also be seen as a proof of the financial capacity of PEA intending to enter the market.</p>	<p>DECISION No. 708, dated 16.10.2003: It requires the deposit of a proof from the bank, until the moment of obtaining the license, in a frozen account amounting to not less than ALL 100,000 (one hundred thousand) to the requesting entity. But there are no specifications for the use of this amount and no possible guarantees.</p>	<p>The Private Employment Agency when applying for a license has to deposit in its bank account a minimum capital as reserve security not less than ALL 100,000 (one hundred thousand). Relicensing is free but must be respected the deadlines.</p>	<p>In terms of financial capacity, the situation of PEAs in Albania is judged favourable and there is no need to make any changes referring to this criterion.</p>
	<p>Good practices: In Poland the potential agency must submit mandatory information and a statement and then it must wait until the data is verified. The process is concluded with a positive or negative response, but even if the request is rejected the cost of about ALL 65,000 is not refunded.</p>	<p>DECISION No. 708, dated 16.10.2003: The agency staff, for the services offered, should have the necessary qualifications and training. The only requirement is the presence of the technical manager. No further specification for the staff qualifications and qualities of a PEA are made. This includes also the top management executives of a PEA.</p>	<p>PEAs in Albania when applying for a license must have a technical administrator in their agency staff and must submit a certificate for the technical administrator and an act proving the required employment relations.</p>	<p>With regard to the personal and professional qualifications of staff, the law must define some criteria for the fulfilment of marketing and management capacities and management capacities by the administrator. Current law also should give a better definition of what is meant by technical administrator since the term is very evasive and allows anyone to consider themselves as such.</p>
Financial capacities	<p>Guide to Private Employment Agencies, ILO (2007) The financial capacities of PEAs are important criteria to assess its business conduct. Proof of sound financial capacity can either be given in the form of a deposit and/or by having a specified minimum start-up capital. Any loss to candidates may be repaid from the deposit. In Denmark, if agencies do not have financial stability, the sanction is the revocation of the permit.</p>			
	<p>Guide to Private Employment Agencies, ILO (2007) Another important criteria for the issuance of a license to operate a PEA is the personal qualification of eligibility for the employment activity; The competencies of the applicant to organize and manage a business; In some countries, license holders are required to have adequate education background in a field related to staff management, job placement, consultation, etc. In Belgium, in order to obtain a license managers should submit their CV and relevant certificates that prove their professional qualification.</p>			
Personal and professional qualifications, Management and marketing capabilities				



		<p>Art 3(2) C. 181; Guide to Private Employment Agencies, ILO (2007)</p> <ul style="list-style-type: none"> <li>o PEA activity must be in accordance with the system of licencing or certification;</li> <li>o The licencing system proposed must not be complex to create unnecessary problems and barriers to the entrepreneurs;</li> <li>o A licencing system also helps to increase transparency by identifying market participants (creation of a database of licenced PEAs) and the overall activities of PEA, e.g. the number of recorded job-seekers;</li> <li>o Licences for the operation of PEA are generally issued for a limited period of time;</li> <li>o If the PEA demonstrates proper business conduct over a specific period of time, the requirements for the re-application procedure may be facilitated and the period of a licence may be extended;</li> <li>o If PEAs do not comply with regulations and their licence has been revoked, cancelled or withdrawn, it would be appropriate for a specified period of time to pass before re-applying for a new licence;</li> <li>o In many countries the issued licence is not transferable and the number of persons allowed to act on its behalf is restricted in order to prevent fraudulent practices once the authorization has been given;</li> <li>o It is required the notification of all changes within the structure of PEA ownership, business address or opening of new branches, to the licencing authority or the agency entrusted with the enforcement of the regulations.</li> </ul>	<p>DECISION No. 708, dated 16.10.2003:</p> <p>The Minister of Social Welfare and Youth is the authority, issuing licences to private employment agencies. A commission processing the applications for licences submitted by these agencies is set up attached to the Minister. Some of the documents required to be submitted for licencing are:</p> <ul style="list-style-type: none"> <li>o a written request for the exercise of the activity;</li> <li>o court decision for registration as a natural person / legal entity;</li> <li>o bank certificate, until the licence is granted, about the frozen amount of not less than ALL 100,000 (one hundred thousand) of the requesting entity;</li> <li>o proof of settlement of obligations of the social security tax for the past three months;</li> <li>o confirmation by the court and prosecutor's office, which proves that the applicant is not being criminally prosecuted against;</li> <li>o confirmation of judicial status of the applicant, partners, shareholders and members of the governing bodies of the entity applying for a licence;</li> <li>o a detailed description of the activity to be conducted;</li> <li>o layout of the agency venue/office and a list of names of staff involved in the mediation process, coupled with respective CVs etc.</li> </ul> <p>The licence is granted for one year, with the right of renewal. When the licence is obtained for the first time a fee of ALL 100,000 (one hundred thousand) for a natural person and ALL 150,000 (one hundred fifty thousand) for legal persons is paid. Renewal is free.</p>	<p>Although according to the law the licence is valid for one year and after renewed, PEAs in Albania receive a licence once and do not apply for its renewal, considering it as permanent. Also, even when is not justified the purpose for which they have received the licence, they continue to possess it without being subject to any revocation, unlike what the law foresees. Regarding licence transferring, the issue is not covered by current law.</p>	<p>The licencing issue needs more transparency and information. It should be specified in the license that it is only valid for one year and it must be renewed. Also in cases where the purpose for which it was obtained the licenses is no longer justified, it must be revoked. Taking into consideration the importance of the sector, there is a need for a strict inspection and clear sanctions for those PEAs that act contract to the law in force.</p>
<p>Compliance related to the functioning.</p>		<p>Incorporation of ethical principles and Code of Ethics in the workplace practices. Avoiding corruption and conflict of interest.</p>			
<p>Compliance with tax regulation.</p>	<p>Tax declaration</p>	<p>Guide to Private Employment Agencies, ILO (2007): Each PEA should fulfil the tax and legal obligations emerging from the national legal framework and regulatory framework.</p>	<p>Every business, whether a PEA or not, is subject to the same laws, instructions in relation to tax and financial obligations.</p>	<p>PEAs pay taxes like every other entity in the country, according to the size of their business.</p>	<p>This aspect of PEAs activity is well regulated and there is no need for any particular change.</p>
<p>Legal compliance: monitoring and inspection of PEAs activities.</p>		<p>Guide to Private Employment Agencies, ILO (2007): PEAs recruitment activities must be monitored. Two alternative ways: a) desk audit of provided information; or b) field audits.</p>	<p>DECISION. 708, dated 16.10.2003: The State Labour Inspectorate conducts periodic inspections to determine the activity of the agency's compliance with relevant legislation and, if violations are found, it notifies the licencing commission.</p>	<p>SLI monitors PEAs, like any other subject, regarding the compliance with the relevant legislation for the agency staff and not for the workers for whom PEAs has been mediating in the labour market.</p>	<p>Monitoring and inspection of PEAs should have a greater importance than the other subjects. Controls should also be more frequent considering the importance of the sector.</p>

<p>Legal compliance: Reporting requirements.</p>		<p>Art 13 (3) C. 181: Governments should request PEA to regularly inform them of their activities by providing administrative data.</p>	<p>DECISION No. 708. dated 16.10.2003: The agency, twice a year, notifies the Ministry of Social Welfare and Youth for its structure and activity.</p>	<p>PEAs in country do not report to MSWY neither for the number of workers employed nor for other information about them. What remains problematic is that no action or sanction is imposed against PEAs.</p>	<p>PEAs must report twice a year to MSWY and if such reporting is not done, sanctions must be imposed.</p>
<p>Respect for diversity and non-discrimination (Protection of employees)</p>		<p>Art 12 C. 181, Art 8 (2) C. 181 Art 8 C.143, ILO Multilateral Framework on Labour Migration: PEA comply with all respective employment laws and/or rules and equal opportunity; Where workers are recruited in one country to work in another, the concerned states must consider concluding bilateral agreements to prevent abuse and fraudulent practices in recruitment, placement and employment. States must ensure that private employment agencies treat workers without discrimination on the basis of race, colour, gender, religion, political opinion, national extraction, social origin, or any other form of discrimination covered by national law and practice, such as age or disability. Article 12.</p>	<p>DECISION No. 708. dated 16.10.2003: The agency ensures equal treatment for all job-seekers. No job-seekers can be discriminated for reasons such as gender, race, religion, ethnicity, language, political opinions, religious or philosophical beliefs, economic, educational, and social or ancestry. The agency must not intermediate for jobs which put at risk and uncertainty job-seekers health and life or which may be subject to abuse or discriminatory treatment.</p>	<p>So far there have been no problematic cases denouncing the phenomenon or the non-enforcement of the law in this regard.</p>	<p>Identification of problematic cases regarding discrimination is a difficult to inspect and is mainly based on complaints of job-seekers. If such cases are reported, appropriate sanctions must be taken.</p>
<p>Agreement to comply with labour and equal opportunity laws.</p>	<p>Information on employment opportunities (Contracts).</p>	<p>Recommendation No. 188 All contracts concluded between PEAs and job-seekers regarding employment conditions have to be in writing; Many countries have developed model employment contracts, which are built on rules and regulations of PEAs and serve as a guide to the prospective employers and workers in the formalization of the employment agreement. Model employment contracts for migrant workers should as a minimum include the following: - Description of the job, workplace and duration of contract; - Basic and overtime remuneration; - Regular working hours, rest days, holidays; - Transportation clauses to workplace and return; - Employment injury and sickness compensation, emergency medical care; - Valid contract termination reasons; - Settling of disputes clause; - Non-cash compensation and work related benefits. In Belgium, if contracts are not respected the company must pay a fine of between EUR 250 and EUR 1,250.</p>	<p>DECISION No. 708. dated 16.10.2003: The Agency should inform job-seekers of the work conditions, before the start of the work relations. There are no information, instructions or guidelines for PEAs contracts. There are no measures for violation of the contract imposed against employment companies and PEAs.</p>	<p>Regarding information, PEAs generally do not inform job-seekers of all work conditions before starting work. Also, contracts are often irregular as they are summarized in only one page and do not include all the necessary information to be foreseen in a contract between two parties.</p>	<p>Even in terms of contracts, a more complete monitoring must be conducted and if contracts are not respected there must be determined different levels of fines and sanctions, depending on the severity of the violation.</p>

	Avoiding fraud (Non-existent jobs).	Recommendation No. 188 (paragraph 7): The competent authority must fight unfair advertising practices and misleading advertisements.	DCM. 553 dated 03.08.2005 "On approval in principle of the Convention No. 143 "Migrant Workers" - deterring illegal movements and employment; DECISION No. 708. dated 16.10.2003: The agency must not intermediate for jobs which put at risk and uncertainty the job-seekers health and life or which may be subject to abuse or discriminatory treatment.	So far there have been no precedents of such practices.	MSWY should be more active and check job offers before they are made public, in order to avoid risks that job-seekers may face.
Collection of fees.	The right to free service. Fees application.	Art 7 C. 181: PEA shall not charge directly or indirectly, in whole or in part, any fees or costs to workers. In Belgium, if PEAs seek or accept application fees from workers, agencies are fined between EUR 2,500 and EUR 6,000 or arrested for a maximum period of one year. In these cases, the law requires the cancellation of license.	DECISION No. 708. dated 16.10.2003: The agency services to job-seekers are free of charge. The agency does not impose any financial obligations to job-seekers, directly or indirectly, except for the payment of the expenses necessary for the completion of the administrative file of every job-seeker. The costs for mediation service are carried out by the agency, or by the employer.	Although the law clearly specifies that PEAs are not allowed to charge mediation costs to applicants, some of them again charge them with mediation costs that can amount to a salary.	Charging job-seekers for the service of mediation is a problem to be addressed. Either the PEAs charging mediation costs to their applicants must be punished or this aspect should be allowed by law, as in Germany. We recommend the first solution.
Confidentiality and sharing of clients and job-seekers personal information.	Protection of personal data.	Art 6 Convention 181, Recommendation No. 188 (on C181): The collection, storage and communication of all personal data of workers should always be carried out pursuant to national laws and regulations on personal data protection. The processing of personal data of workers by private employment agencies shall be: (a) done in a manner that protects this data and ensures respect for workers privacy in accordance with national law and practice; (b) limited to matters related to the qualifications and professional experience of the workers concerned.	DECISION No. 708. dated 16.10.2003: Processing of the job-seekers data is done by the agency respecting confidentiality and use of data according to the nature of work. The Agency shall not register in file or records, personal information of job-seekers, who are not required to evaluate its tendency to workplace. The Agency should keep the personal data of a job-seeker, only for as long as is justified by the specific purposes for which these data were collected or for as long as the job-seeker wants to remain in the list of potential candidates for a work place. Agency unless directly related to the requirements for a particular occupation or with the consent of job-seekers interested, should not require, maintain or use the data on the medical condition of a job-seeker or use such data to determine his eligibility for employment.	So far it seems that PEAs have been correct in terms of confidentiality given that there have been no cases of complaints by job-seekers.	As regards the protection of personal data, the visits of the High Commissioner for Protection of Personal Data towards these subjects should be more frequent. Only this way can we have confidence that the data of job-seekers are treated confidentially and are not misused.

Recruitment of migrant workers.	Suitable conditions of work and lifestyle workers protection.	C.181, Art 8 (2) C.181 Art 8 C.143: ILO Multilateral Framework on Migration for Employment The Government should take measures to ensure that child labour is not used or supplied by PEAs. PEAs should ensure adequate protection for the workers for: (a) freedom of association; (b) collective bargaining; (c) minimum wages; (d) working time and other working conditions; (e) statutory social security benefits; (f) access to training; (g) occupational safety and health; (h) compensation in case of occupational accidents or diseases; (i) compensation in case of insolvency and protection of workers claims; (j) maternity protection and benefits, and parental protection and benefits. Convention 97 Annex 1; Recommendation 86: -The recruitment of migrant workers should be carried out only by: public authorities', prospective employers or authorized private agencies -PEAs activities must be carried out under official supervision, so as to protect migrants against various possible forms of exploitation such as: a) fraudulent contracts; b) payment of fees for the employer in the hosting country; c) Utilization of misleading propaganda which attempts to evade immigration controls. Any deduction from wages as a direct or indirect payment for the purpose of securing employment (made by a worker, his or her employer, a labour contractor, or a recruiter) is prohibited.	DECISION No. 708. dated 16.10.2003: The job-seeker mediated from the employment agency has the right to collective bargaining, minimum wages, working time and conditions, social security benefits, safety and occupational health. The legal framework does not foresee any sanction for non-compliance with legislation on the protection of employees, etc. no coercive measure, except for review and possible removal of the licence.	PEAs declare that they have never facilitated employment of children. Also the institutions did not have any cases sanctioned for such illegal practice.	The legal framework should be strengthened with sanction measures for non-compliance with the legislation in protection of workers.
Safe recruitment process			DECISION No. 708. dated 16.10.2003: The State Labour Inspectorate conducts periodic inspections to determine the compliance of the activity of the agency with relevant legislation and, if violations are found, it notifies the licensing commission. Field survey shows that the Labour Inspectorate realizes visits to PEAs only in terms of being a business like everyone else, but not a mediation actor in the labour market.	The field observation proves that actually SLI conducts visits to PEAs only in terms of them being businesses as all the rest, but not as actors of mediation in the labour market.	SLI and MSWY should coordinate among them in order to ensure that PEAs are providing job-seekers with a secure recruitment process.

Source:w Author's work, 2015.

### 3.6 The problems identified during the workshop organized by IOM

During the meeting organized by the International Organization for Migration (IOM), entitled the “Promotion of adequate opportunities for employment and protection of migrant workers in Albania”, with the Private Employment Agencies in Albania invited to attend, other problems emerged to disturb the PEAs activity:

- ✓ PEAs often face difficulties to find qualified professionals, especially in terms of vacancies that require professional education. Also in this regard, it was emphasized that there is no information if there is a list of professions mostly needed in our country, in order to enable PEAs to guide and train job-seekers.
- ✓ It was emphasized the need to establish an effective system of mediation in order to promote safe migration and effective employment. In addition, it was suggested the creation of a network with the sector operators and the real-time distribution of vacancies, thus developing the labour stock (matching the supply and demand for labour).
- ✓ Special interest was paid to ethics in recruitment and it was even proposed the establishment of an assessment system for PEAs based on the respect for ethics in recruitment, in order to ensure as safe and decent employment.
- ✓ The parties involved identified the need for a greater cooperation between PEAs and NES, particularly with regard to their statistical reporting and the exchange of job vacancies. Moreover it was proposed a ranking of PEAs websites operating in the market posted in the official website of the National Employment Service, in order to assist job-seekers, ensuring them a clearer orientation and choice options in the labour market.

Main stakeholders in the sector of Private Employment Agencies in Albania throughout the meeting paid great attention to their cooperation with MSWY and called for its support to achieve as safer mediation as possible. After numerous discussions, it was highlighted once again the huge impact of their activities and the need for greater cooperation between them, in order to increase employment productivity and propose better policies.

## 4. Conclusions and recommendations

This report, in addition to the findings and recommendations derived from the assessment in the field of PEAs sector, suggestions made by the stakeholders during the event organized by IOM have been reflected.

### 4.1 Conclusions

Some of the key analytical findings observed in this study are:

- PEAs number in Albania in proportion to the size of the country is really limited compared to the European countries, and mostly all of them operate in Tirana, thus being accessible only to a limited number of people.
- In October 2015, only three fifths of PEAs (44.4%) operating in Albania are licensed from the National Registration Centre. The rest of the Private Employment Agencies conduct their activity freely, without having a licence and sometimes under the justification that the profile of their business does not require a licence.
- Some of these agencies, around a fifth of them (19.1%) claim that they have switched to the passive status or that they have abandoned their employment mediation function. Meanwhile around 14.9 per cent of PEAs do not appear to be part of the effective labour market.
- With regard to PEAs type of ownership, the most common type of ownership, with 50 per cent, are limited liability companies. This happens considering the fact that these businesses do not generally pass the level of a small company. Even in the study, the biggest company did not have mediation in the employment market as its main priority.
- Around 10 per cent of agencies operating in the market offer mediation as their second activity to third parties and operate only within the country.
- Regarding the extension of their activity, around two thirds of PEAs (64.5%) operate internationally, employing Albanians abroad or foreigners in Albania.
- PEAs admit that the most common tools they use to attract candidates are personal contacts or recommendations and advertising, respectively 92.3 per cent and 76.9 per cent. Meanwhile all of them acknowledge that they do not consider or use other Private Employment Agencies as a source for potential candidates.
- In the view of institutional interaction with the public sector, it results that the agreements between PEAs and state labour offices are almost inexistent (only one agency has such agreement). However, two fifths of them (38.5%) say to have considered the National Employment Service as a tool to attract candidates.
- From the analysis of the institutional level of organization of PEAs, it results that in Albania until the end of 2015 there was no association of these Private Employment Agencies and consequently horizontal cooperation among them is almost inexistent. None of them sees the other PEAs as a source for potential candidates.

- Concerning the application of unofficial financial fees on job-seekers, a quarter of PEAs (23.1%) admit that they charge fees to their candidates, and this is contrary to the law and the ILO Convention 181.
- Referring to the legal regulation of relation between PEAs and job-seekers, all PEAs claim that they use the same type of contract for every individual regardless of gender, age and ethnic origin. Almost three fifths of PEAs (51.7%) declare that they provide to costumers the contract in two languages, Albanian and in another language, mostly English.
- More than two thirds of PEAs (71.4%) express that they follow further the work and conditions of Albanian emigrants employed abroad.
- In case of abuse or discrimination, two-thirds of agencies (66.7%) declare that they would provide repatriation support and activate the authorities of the country where the worker is present.
- Only one of respondent PEAs considers gender as a relevant factor, and the employment of females abroad as a potential risk. This confirms the fact that there is a lack of awareness among PEAs for gender implications.
- More than half of PEAs in Albania (54.5%), operating internationally, admit that they are not obliged to report to any government institution, and this is fully inconsistent with the current law. Moreover, PEAs say that they can make their offers public without having them reviewed or approved by any government institution. This again is contrary to the law "On emigration of Albanian citizens for employment purposes".

Some of the key qualitative findings observed in the study are:

- The companies offering employment mediation in Albania for opportunities in the country and abroad do not fully comply with the legal requirements stated in the laws regarding PEAs activity. In the same time, they have gained experience during these years in the market and among them some potential companies are becoming key actors in the market.
- There is a general lack of civil society organizations protecting migrant workers' rights in Albania and Albanians abroad. There is no organization or syndicate with a focus on PEAs applicants, candidates etc., and as well in some cases there is no free consultancy service about the procedures.
- At the same time until the end of 2015 there was no business association uniting all PEAs in one group or voice, as representatives of this kind of business and activity. Such an association has just been created, but it has no significant number of participants.
- PEAs and companies employing migrant workers in Albania require legal assistance in order to offer a better service.
- The application procedures for work permit and residence permit in Albania are improved considerably, but applications are still done in person and there is no available platform for online applications.
- The Albanian Legislation is aligned with the main ILO Conventions concerning the topic, but the secondary legislation lacks the necessary specifications. It can be mention here, addenda to the legislation regarding the transfer of licence, sanctions for noncompliance and specifications for the employment of foreign citizens in Albania.
- Albanian PEAs do not always apply some of the articles in the legislation, but during the study there was no case of penalties or inspection of their practices.

- Public institutions do not conduct special inspections or physical checks on the activity of these businesses.
- Coordination between the private companies of the sector and related institutions is missing. Efforts are made, but they did not result in constant cooperation.
- The National Licensing Centre website is the only place where licensed PEAs or individuals are listed and information by public institutions on the activity and current state of these PEAs is not available.

## 4.2 Recommendations

According to the above-mentioned key findings, this study suggests some recommendations or policies which require greater importance in achieving operational Standards of Private Employment Agencies and a better regulation of the market.

Institutional Policymaking, Monitoring and Legal Framework:

- Albania should ratify the latest ILO Conventions, including Convention on the Domestic Workers [2011 (No. 189)] and it must align legislation properly with the past ratified Conventions.
- The secondary legislation needs to be amended immediately in order to clarify the operational framework of PEAs and strengthen the role of the job-seekers and migrant workers.
- Concerning the type of market, Albania is among the developing markets, which means that its regulatory policies are still evolving. If we consider the current state of PEAs, it would be advisable for Albania to be part of countries governed by legislation, as the latter are very well regulated.
- As mentioned above, the contract between the PEA and the job-seekers is often inappropriate, therefore a standard model of a contract must be designed, or a list of minimum requirements must be established to be part of the contract.
- As Albania issues one licence for both kinds of PEAs, the ones operating nationally and the ones internationally, some improvements are suggested in the future practices. PEAs before being licensed should declare the extent of their activity within the country or/and abroad. Another possibility is the operating of PEAs under two types of licences, for migrant work mediation abroad and for employment mediation in the country. The identification of PEAs operating internationally becomes easier. Also, inspections and tracking of their activities becomes easier and the chances of a possible cooperation of the public sector with an identified private sector are higher.
- Improvement of the reporting and monitoring processes is fully needed to ensure respect of the regulation. Given that the current situation of PEAs operating in Albania is a little vague with many agencies operating without a licence, improvement must be made to identify clear public responsibilities.
- Institutional authorities should be an active actor in informing the public on the current situation of PEAs activities. Some of the main relevant institutions, such as MSWY and SLI, should provide internet space and websites to the Private Employment Sector, for the current state and the frequent update. Moreover, the National Employment Service (NES) must make an agreement with PEAs in order to have in its official website a link to all PEAs online websites. Given that, the individuals interviewed almost always referred to the recommendations of other people who had an experience with the PEA, the networking among migrants is important. It implies that social networks and media should be used as tools to raise further awareness of migrant workers.



- Keeping in mind the relevance of addressing illegal immigration and resulting high risks, institutions and policymakers should provide enough information to individuals in order for them to be able to build trust and use the right channels to be informed as job-seekers.
- The high rate of informality in the country may leave room to suspicious activities and in order to prevent that, immediate actions must be taken for a better regulation of the market. MSWY or SLI should create an ad hoc team to support, train but also inspect and supervise the PEAs activity.
- Albania has adjusted its legislation with the Act 181 of ILO Convention, but it has not been willing to respect and practice it. Many agencies are charging application fees on their candidates and actions of penalizing them must be taken. There must be harsher penalties versus PEAs acting without a licence.
- Taking in consideration that all PEAs admit that they are not required to report to any government institutions regarding their offers and activities, the government institutions must focus on regulating the work of agencies, to make it secure and reliable for the labour force and prospective candidates. In addition, the ministry responsible for employment (MSWY) may organise alone or with the National Employment Service, annual public meetings in order to improve information about Private Employment Agencies.
- It can also be established a rating system for agencies in order to orientate better the labour market and clients. This rating system may be set up by taking into account all the principles outlined in IRIS Code of Conduct. A rating system would make it easier to identify those PEAs that operate in compliance with the law and thus they may be given some benefits (for example listed as a reliable company in government websites, etc.) Moreover, this would orient employers to reliable employment agencies by motivating them to work with them instead of other agencies.

#### Recommendations on gender perspective:

- Public institutions should undertake awareness campaigns about the risk of female employment abroad, in order to pay special attention to their employment.
- Increase of surveillance on those Private Employment Agencies that intermediate female employment abroad and strict monitoring of their contracts, in order to eliminate as much as possible the risk of their employment.
- Improvement of inspection to ensure that PEAs are managing the employment mediation in a balanced way, by providing women equal opportunities with men. For similar jobs, women should enjoy same conditions as men, including the working hours and the equal wage.

#### Private Sector:

- PEAs should strengthen their cooperation with training centres in order to find or prepare adequate candidates for their job vacancies.
- In a competitive market, Private Employment Agencies need to prepare and build capacities to survive the market, institutional framework and legal requirements.
- Private Employment Agencies should seek for the creation of a stronger connection than the existent one between them and public institutions, especially the National Employment Service. Cooperation between private and public sector is crucial for the regulation of the market.
- Current and future PEAs should consider their qualification and skills in order to fulfil requirements for licences and legal services.

- Private Employment Agencies should work on the improvement of the recruitment process for a more ethical recruitment and in accordance with the actual and future legislation. PEAs should be inclined to apply a Code of Conduct for all their processes, focusing on recruitment processes.
- Agencies themselves may unite forces and work for the creation of a business association that represents all PEAs. Therefore they can work to jointly improve the main practices and become a powerful voice in policymaking.

These recommendations call for cooperation of private and public sector. They must be further considered and elaborated and policies must be integrated and implemented in the market.

# References

## Working Papers, Strategies and Documents

Article 28, Law No. 9668, dated 18.12.2006 "On Emigration of Albanian Citizens for Employment Purposes", [www.pp.gov.al/web/ligj\\_per\\_emigrimin\\_36.pdf](http://www.pp.gov.al/web/ligj_per_emigrimin_36.pdf).

Article 29, Law No. 9668, dated 18.12.2006, "On the Emigration of Albanian Citizens for Employment Purposes", [www.pp.gov.al/web/ligj\\_per\\_emigrimin\\_36.pdf](http://www.pp.gov.al/web/ligj_per_emigrimin_36.pdf).

Article 30, Law No. 9668, dated 18.12.2006, "On the Emigration of Albanian Citizens for Employment Purposes", [www.pp.gov.al/web/ligj\\_per\\_emigrimin\\_36.pdf](http://www.pp.gov.al/web/ligj_per_emigrimin_36.pdf).

Article 37, Private Employment Agencies, Law No. 9668.

Article 38, Law No. 10081, dated 23.2.2009, "On licenses, authorizations and permits in the Republic of Albania", <http://faolex.fao.org/docs/pdf/alb143551.pdf>.

Article 4, Law No. 9887, dated 10.3.2008, "On Protection of Personal Data", [www.aspa.gov.al/images/ligji\\_9887\\_per\\_mbrotjen\\_e\\_te\\_dhenave\\_personale.pdf](http://www.aspa.gov.al/images/ligji_9887_per_mbrotjen_e_te_dhenave_personale.pdf).

Article 4, The authorities responsible for dealing with foreigners, Law No. 9959, Dated 17.7.2008 "On aliens", [www.infocip.org/al/?p=6037](http://www.infocip.org/al/?p=6037).

Dottridge, M. (2012), "Regional Implementation Initiative Guidelines for Preventing, Identifying and Combatting Cases of Trafficking in Human Beings for Labour exploitation", "Theory to Practice, Human Trafficking for Labour Exploitation, Guidance on Methods of Evidence Collection and Avenues of Justice, Good and Bad Practices", [www.bmbf.gv.at/frauen/gewalt/guidelines\\_for\\_responding\\_to\\_26175.pdf?4dz8a1](http://www.bmbf.gv.at/frauen/gewalt/guidelines_for_responding_to_26175.pdf?4dz8a1).

"Employment Promotion Programs in Albania: Assessment of the their quality on the formulation and implementation processes (2008–2012)"; [www.kerkojpune.gov.al/wp-content/uploads/2015/04/EPPAlbania-Final-Report-Alb-Final.pdf](http://www.kerkojpune.gov.al/wp-content/uploads/2015/04/EPPAlbania-Final-Report-Alb-Final.pdf).

Eurociett, "The Role of Temporary Agency Work and Labour Market Transitions in Europe", [www.bollettinoadapt.it/old/files/document/22015Eurociett\\_Therol.pdf](http://www.bollettinoadapt.it/old/files/document/22015Eurociett_Therol.pdf).

Ciett Report (2012), [www.eurociett.eu/fileadmin/templates/ciETT/docs/Stats/CiETT\\_econ\\_report\\_2012\\_final.pdf](http://www.eurociett.eu/fileadmin/templates/ciETT/docs/Stats/CiETT_econ_report_2012_final.pdf).

Ciett Report (2015), [www.ciETT.org/fileadmin/templates/ciETT/docs/Stats/Economic\\_report\\_2015/CIETT\\_ER2015.pdf](http://www.ciETT.org/fileadmin/templates/ciETT/docs/Stats/Economic_report_2015/CIETT_ER2015.pdf).

Decision No. 708, dated 16.10.2003, "On the licensing and functioning of Private Employment Agencies", [www.duapune.com/blog/wp-content/uploads/Legjislacioni/Per\\_menyre\\_e\\_funksionimit\\_te\\_agjencive\\_private\\_te\\_punesimit.pdf](http://www.duapune.com/blog/wp-content/uploads/Legjislacioni/Per_menyre_e_funksionimit_te_agjencive_private_te_punesimit.pdf).

European Parliament (2013), The role and activities of PEAs, [www.europarl.europa.eu/meetdocs/2014\\_2019/documents/empl/dv/empl20141120-study-temp-agencies-/empl20141120-study-temp-agencies-en.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/documents/empl/dv/empl20141120-study-temp-agencies-/empl20141120-study-temp-agencies-en.pdf).

- The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) (2014), "Guidelines to Prevent Abusive Recruitment, Exploitative Employment and Trafficking of Migrant Workers in the Baltic Sea Region", [www.heuni.fi/material/attachments/heuni/news/xVQCA9pnF/BROCHURE\\_net\\_Guidelines.pdf](http://www.heuni.fi/material/attachments/heuni/news/xVQCA9pnF/BROCHURE_net_Guidelines.pdf).
- ILO (2007), "Guide to Private Employment Agencies Regulation, monitoring and enforcement, ILO, 2007" [www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/instructionalmaterial/wcms\\_083275.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/instructionalmaterial/wcms_083275.pdf).
- ILO (2011), "Private employment agencies, promotion of decent work and improving the functioning of labour markets in private services sectors", [www.ilo.org/wcmsp5/groups/public/@ed\\_dialogue/@sector/documents/meetingdocument/wcms\\_164611.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@sector/documents/meetingdocument/wcms_164611.pdf).
- ILO (2013), Private Employment Agencies in Ukraine, [www.ilo.org/wcmsp5/groups/public/@europe/@ro-geneva/@sro-budapest/documents/publication/wcms\\_244716.pdf](http://www.ilo.org/wcmsp5/groups/public/@europe/@ro-geneva/@sro-budapest/documents/publication/wcms_244716.pdf).
- ILO (2013), Private Employment Agencies in South Africa, [www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/publication/wcms\\_231438.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_231438.pdf).
- ILO (2013), "Regulating recruitment of migrant workers: An assessment of complaint mechanisms in Thailand", [www.ilo.org/wcmsp5/groups/public/---asia/---ro-Bangkok/documents/publication/wcms\\_226498.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-Bangkok/documents/publication/wcms_226498.pdf).
- ILO (2014), Private Employment Agencies and Labour Dispatch in China, [www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/publication/wcms\\_246921.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_246921.pdf).
- ILO (2011), Private Employment Agencies in Morocco, [www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/publication/wcms\\_172946.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_172946.pdf).
- IOM, (2005), "Labour Migration in Asia", [http://publications.iom.int/system/files/pdf/labour\\_migration\\_asia\\_2.pdf](http://publications.iom.int/system/files/pdf/labour_migration_asia_2.pdf).
- ManGroup, "An Ethical Framework for Crossborder Labour Recruitment", [www.verite.org/sites/default/files/ethical\\_framework\\_paper\\_20120209\\_PRINTED.pdf](http://www.verite.org/sites/default/files/ethical_framework_paper_20120209_PRINTED.pdf).
- Markova, E. and S. McKay "Agency and migrant workers Literature review", [www.vulnerableworkers.org.uk/wp-content/uploads/2008/08/literature-review-final.pdf](http://www.vulnerableworkers.org.uk/wp-content/uploads/2008/08/literature-review-final.pdf).
- Ministry of Labour, Social Affairs and Equal Opportunities (2007), "Employment Sector Strategy 2007-2013", [www.duapune.com/blog/wp-content/uploads/2009/08/strategjia-punesim-2007-2013.pdf](http://www.duapune.com/blog/wp-content/uploads/2009/08/strategjia-punesim-2007-2013.pdf).
- Ministry of Social Welfare and Youth Employment, Strategy 2014–2020, "Higher skills and better jobs for all women and men" 2014, [www.seecel.hr/UserDocsImages/Documents/EMP-SKILLS-STRATEGY\\_Albania.pdf](http://www.seecel.hr/UserDocsImages/Documents/EMP-SKILLS-STRATEGY_Albania.pdf).
- Ministry of Social Welfare and Youth, Press Release, 2014: [www.sociale.gov.al/al/te-reja/deklarata-per-shtyp/sula-mmsr-perpjekje-per-te-promovuar-emigracionin-e-rregullt&page=7](http://www.sociale.gov.al/al/te-reja/deklarata-per-shtyp/sula-mmsr-perpjekje-per-te-promovuar-emigracionin-e-rregullt&page=7).
- Ministry of Youth and Social Welfare, "National Strategy for Employment and Skills 2014-2020", [www.sociale.gov.al/files/documents\\_files/Strategjia\\_per\\_Punesim\\_dhe\\_Aftesim\\_2014-2020.pdf](http://www.sociale.gov.al/files/documents_files/Strategjia_per_Punesim_dhe_Aftesim_2014-2020.pdf).
- National Strategy of Employment and Capabilities 2014–2020, [www.sociale.gov.al/files/documents\\_files/Strategjia\\_per\\_Punesim\\_dhe\\_Aftesim\\_2014-2020.pdf](http://www.sociale.gov.al/files/documents_files/Strategjia_per_Punesim_dhe_Aftesim_2014-2020.pdf).
- Locke, R.M., B.A. Rissing and T. Pal (2013), "Complements or Substitutes? Private Codes, State Regulation and the Enforcement of Labour Standards in Global Supply Chains", [http://watson.brown.edu/files/watson/imce/locke/publications/10.1111\\_bjir.12003.pdf](http://watson.brown.edu/files/watson/imce/locke/publications/10.1111_bjir.12003.pdf).

Recruitment Sector Legislation: Consultation on reforming the regulatory framework for employment agencies and employment businesses – impact assessment (2013), Department of Business Innovation and Skills, UK Government, [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/52302/13-531-recruitment-sector-legislation-consultation-on-reforming-regulatory-framework-impact.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/52302/13-531-recruitment-sector-legislation-consultation-on-reforming-regulatory-framework-impact.pdf).

Sayin, A.K. (2008), "Private Employment Agencies: Case Turkey", World Bank 2015, "Challenges Facing Albanian Youth On The Road Towards Employment", [http://pdc.ceu.hu/archive/00006158/01/agenda\\_policy\\_brief\\_youth\\_employment\\_en.pdf](http://pdc.ceu.hu/archive/00006158/01/agenda_policy_brief_youth_employment_en.pdf).

Toppan, R., "Guidelines For Quality Assurance In Public And Private Employment Services, Romano Toppan" [www.anofm.ro/files/PES%20PRES%20Guidelines.pdf](http://www.anofm.ro/files/PES%20PRES%20Guidelines.pdf).

United States Equal employment Opportunity Commission's (EEOC), "Best Practices of Private Sector Employers", <http://disabilitykey.com/downloads/EEOCBestPractices.pdf>.

Vaculovschi, D. (2013), "Labour Migration and Private Employment Agencies in the Republic of Moldova", [www.managementgeneral.ro/pdf/1\\_2013\\_13.pdf](http://www.managementgeneral.ro/pdf/1_2013_13.pdf).

Van Liemt, G., "Private employment agencies in the Netherlands, Spain and Sweden", 2013, [www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/publication/wcms\\_231420.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_231420.pdf).

World Bank, statistics for the unemployment indicator, <http://data.worldbank.org/indicator/SL.UEM.TOTL.ZS/countries/1W-EU-C7?display=graph>.

World Bank (2012), " Public Employment Services In The Middle East And North Africa", [www.iza.org/conference\\_files/worldb2012/angel-uridinola\\_d4898.pdf](http://www.iza.org/conference_files/worldb2012/angel-uridinola_d4898.pdf).

## International Labour Standards and Conventions

International Labour Standards on Migrant workers:

[www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/migrant-workers/lang--en/index.htm](http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/migrant-workers/lang--en/index.htm).

R086 - Migration for Employment Recommendation (Revised), 1949 (No. 86):

[www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312424:No](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312424:No).

R061 - Migration for Employment Recommendation, 1939 (No. 61):

[www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312399:No](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312399:No).

C181 - Private Employment Agencies Convention, 1997 (No. 181):

[www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312326:No](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312326:No).

C097 - Migration for Employment Convention (Revised), 1949 (No. 97):

[www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C097](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C097).

C143 - Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143):

[www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C143](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C143).

Guide to Private Employment Agencies. Regulation, monitoring and enforcement, ILO (2007); ILO Multilateral Framework on Labour Migration, ILO (2006).

## Websites

Ministry of Social Welfare and Youth: [www.sociale.gov.al/](http://www.sociale.gov.al/).

Ministry of Foreign Affairs: [www.punetejashtme.gov.al](http://www.punetejashtme.gov.al).

National Employment Service: [www.kerk°jpune.gov.al/](http://www.kerk°jpune.gov.al/).

Labour Inspectorate: <http://inspektoriatipunes.gov.al/>.

National Licensing Centre: [www.qkl.gov.al](http://www.qkl.gov.al).

The Ombudsman: [www.avokatipopullit.gov.al/](http://www.avokatipopullit.gov.al/).

ILO Conventions: [www.ilo.org/dyn/normlex/en/f?p=1000:12000:0::NO::](http://www.ilo.org/dyn/normlex/en/f?p=1000:12000:0::NO::)

ILO Protocols: [www.ilo.org/dyn/normlex/en/f?p=1000:12005:0::NO::](http://www.ilo.org/dyn/normlex/en/f?p=1000:12005:0::NO::)

ILO Recommendations: [www.ilo.org/dyn/normlex/en/f?p=1000:12010:0::NO::](http://www.ilo.org/dyn/normlex/en/f?p=1000:12010:0::NO::)

# Annexes

## Annex 1. The relevant legislative framework

1. Law No. 9668, dated 18.12.2006 "On emigration of Albanian citizens for employment reasons":  
[www.pp.gov.al/web/ligj\\_per\\_emigrimin\\_36.pdf](http://www.pp.gov.al/web/ligj_per_emigrimin_36.pdf).
2. Law No. 10 389, dated 03.03.2011 "On some amendments and addenda to Law No. 9668, dated 18.12.2006 On emigration of Albanian citizens for employment reasons":  
<http://80.78.70.231/pls/kuv/f?p=201:Ligj:10389:03.03.2011>.
3. Law No. 108/2013 "On aliens":  
[www.punetebrendshme.gov.al/files/documents\\_files/13-11-14-04-05-08ligji\\_per\\_te\\_Huajt.pdf](http://www.punetebrendshme.gov.al/files/documents_files/13-11-14-04-05-08ligji_per_te_Huajt.pdf).
4. Law No. 9320, dated 25.11.2004 "On the ratification of the Convention No. 97 of ILO "On the Employment Migration" updated".
5. DCM No. 81, dated 12.02.2014 implementing law No. 108/2013:  
[http://shkp.gov.al/wp-content/uploads/2014/02/No.-3-VKM-t%C3%AB\\_n%C3%AB\\_mb%C3%ABshtetje\\_t%C3%AB\\_ligjit\\_p%C3%ABr\\_t%C3%AB\\_huajt\\_n-%C3%AB\\_baz%C3%AB\\_t%C3%AB\\_ligjit\\_108-2013.-1-1.pdf](http://shkp.gov.al/wp-content/uploads/2014/02/No.-3-VKM-t%C3%AB_n%C3%AB_mb%C3%ABshtetje_t%C3%AB_ligjit_p%C3%ABr_t%C3%AB_huajt_n-%C3%AB_baz%C3%AB_t%C3%AB_ligjit_108-2013.-1-1.pdf).
6. Directive No. 84, dated 06.06.2011 "On the form and content of the "Register of Migrants".
7. Law No. 10081 dated 23.02.2009 "On licenses, authorizations and permits in the Republic of Albania": [www.qkl.gov.al/Nlc\\_Legislation.aspx](http://www.qkl.gov.al/Nlc_Legislation.aspx).
8. No. 10137 Law, dated 11.05.2009 "On some amendments to the legislation in force on licenses, authorizations and permits in the Republic of Albania": [www.qkl.gov.al/Nlc\\_Legislation.aspx](http://www.qkl.gov.al/Nlc_Legislation.aspx).
9. DCM 538, dated 26.05.2009 "On licenses and permits issued by the National Licensing Centre (NLC) and other common sublegal acts": [www.qkl.gov.al/Nlc\\_Legislation.aspx](http://www.qkl.gov.al/Nlc_Legislation.aspx).
10. DCM No. 1295 dated 29.12.2009 "On some amendments to DCM No. 538, dated 26.05.2009, on licenses and permits issued by the National Licensing Centre (NLC) and other common sublegal acts": [www.qkl.gov.al/Nlc\\_Legislation.aspx](http://www.qkl.gov.al/Nlc_Legislation.aspx).
11. DCM. 421, dated 15.05.2013 "On some amendments to DCM No. 538, dated 26.05.2009, on licenses and permits issued by the National Licensing Centre (NLC) and other common sublegal acts": [www.qkl.gov.al/Nlc\\_Legislation.aspx](http://www.qkl.gov.al/Nlc_Legislation.aspx).
12. Law No. 6/2015 on some amendments and addenda to law No. 10081 dated 23.02.2009 "On licenses, authorisations and permits in the Republic of Albania", [www.qkl.gov.al/Nlc\\_Legislation.aspx](http://www.qkl.gov.al/Nlc_Legislation.aspx).

13. The Labour Code of the Republic of Albania, October 2012,  
[www.qbz.gov.al/botime/fletore\\_zyrtare/2012/PDF-2012/Kodi%20i%20punes-2012.pdf](http://www.qbz.gov.al/botime/fletore_zyrtare/2012/PDF-2012/Kodi%20i%20punes-2012.pdf).
14. Law No. 7995 dated 20.09.1995 on promotion of employment.  
[www.kerkojpune.gov.al/wp-content/uploads/2014/02/ligji\\_i\\_nxitjes\\_se\\_punesimit.pdf](http://www.kerkojpune.gov.al/wp-content/uploads/2014/02/ligji_i_nxitjes_se_punesimit.pdf).



# Vlerësim i kuadrit të rekrutimit të Agjencive Private të Punësimit



United Nations  
ALBANIA



International Organization for Migration



SWEDEN