

B. Responsibilities of enterprises and public employment services

This section does not apply to governmental agencies when acting in a regulatory capacity.

Enterprises and public employment services bear special responsibility for preventing abusive or unfair recruitment.

15. **Enterprises and public employment services should respect human rights when recruiting workers, including through human rights due diligence assessments of recruitment procedures, and should address adverse human rights impacts with which they are involved.**
 - 15.1. All enterprises and public employment services should respect human rights in their recruitment processes wherever they operate, independently of the abilities and/or willingness of States to fulfil their human rights obligations.
 - 15.2. They should undertake due diligence regarding their recruitment activities.
 - 15.3. When they are not practising direct recruitment, enterprises should engage workers only through compliant labour recruiters, including public employment services and private recruitment agencies. Where it is not feasible to verify directly the conduct of all the parties involved in recruitment, there should, at a minimum, be a contractual obligation requiring labour recruiters to work with third parties operating in accordance with legal requirements, and these principles and guidelines. The enterprise should have in place a procedure for evaluating other parties involved in the recruitment process.
 - 15.4. Enterprises and public employment services should respect internationally recognized human rights, including those expressed in international labour standards, in particular the right to freedom of association and collective bargaining, and prevention and elimination of forced labour, child labour and discrimination in respect of employment and occupation, in the recruitment process.
 - 15.5. Enterprises and public employment services should not retaliate against or blacklist workers, in particular those who report recruitment abuses or fraudulent recruitment practices anywhere along their supply chain, and should provide special protections for whistle-blowers pending the investigation or resolution of a grievance or dispute.
16. **Enterprises and public employment services should undertake recruitment to meet established labour market needs and never as a means to displace or diminish an existing workforce, lower wages or working conditions, or otherwise undermine decent work.**
17. **No recruitment fees or related costs should be charged to, or otherwise borne by, recruited workers and jobseekers.**
 - 17.1. Workers and jobseekers should not be charged any fees or related recruitment costs by an enterprise, its business partners or public employment services for recruitment or placement, nor should workers have to pay for additional costs related to recruitment.
 - 17.2. Enterprises and public employment services should communicate this policy externally via guidelines and other means including contracts to all prospective and current business partners and relevant stakeholders. Enterprises should determine whether private employment agencies and other labour recruiters charge recruitment fees to workers or impose other related costs on them, and should not engage workers through agencies and other labour recruiters known to charge recruitment fees or related costs to workers.
18. **Enterprises and public employment services should not retain passports, contracts or other identity documents of workers.**
 - 18.1. Enterprises and public employment services should not interfere with workers' free and complete access to their own passports, identity documents and residency papers, including their employment contracts, paying careful attention to the situation of migrant workers.
19. **Enterprises and public employment services should respect workers' confidentiality and ensure protection of data pertaining to them.**
 - 19.1. Enterprises should not record, in files or registers, personal data which is not required to judge the aptitude of workers, including migrant workers, for jobs for which they are being or could be considered, or which is not required to facilitate their deployment. This data should not be communicated to any third party without the prior written approval of the worker.

20. **Enterprises may work to develop schemes that drive professional recruitment standards.**

- 20.1. These schemes should be subject to regular monitoring and evaluation. Industry-led initiatives should complement and be consistent with government enforcement activities and regulations covering the recruitment process.

1. *Labour recruiters*

A distinction is made in these guidelines between labour recruiters serving as intermediaries to place workers in employment, including those involved in multiple layers of the recruitment process, and employment agencies employing workers and placing them at the disposal of user enterprises.

21. **Labour recruiters should respect the applicable laws and fundamental principles and rights at work.**

- 21.1. Labour recruiters should have in place policies and processes, including due diligence, to ensure that their recruitment activities are conducted in a manner that treats workers with dignity and respect, free from harassment or any form of coercion or degrading or inhuman treatment. Labour recruiters should not restrict the movement of, nor abuse or allow abuse of, workers who are under their protection.

22. **When labour recruiters recruit workers in one country for employment in another country, they should respect human rights, including fundamental principles and rights at work, in compliance with international law and the law in the country of origin, the country of transit and the country of destination, and with international labour standards.**

- 22.1. Recruitment across international borders should respect the applicable national laws, regulations, employment contracts and applicable collective agreements of countries of origin, transit and destination, and internationally recognized human rights, including the fundamental principles and rights at work, and relevant international labour standards. These laws and standards should be effectively implemented.

23. **Labour recruiters acting across borders should respect bilateral or multilateral migration agreements between the countries concerned which promote human rights, including workers' rights.**

- 23.1. Labour recruiters should respect workers' rights in line with bilateral or multilateral agreements under which recruitment is carried out, especially in cases where the law does not provide adequate protection in one or the other jurisdiction.

24. **Labour recruiters should take steps to ensure that the conditions of work and living conditions into which workers are recruited are those that they have been promised.**

- 24.1. Labour recruiters should ensure that workers are not deceived with respect to their working and living conditions.
- 24.2. Labour recruiters should ensure that migrant workers have a legally recognized employment relationship with an identifiable and legitimate employer in the country where the work is performed.

25. **Temporary employment agencies and user enterprises should agree on the allocation of responsibilities of the agency and of the user enterprise, and ensure that they are clearly allocated with a view to guaranteeing adequate protection to the workers concerned.**

- 25.1. The user enterprise and the temporary employment agency should determine, in accordance with the law, which of them is responsible for the various aspects of the employment relationship, and ensure that the workers concerned are aware of those respective responsibilities. In all cases, either the user enterprise or the temporary employment agency should exercise those responsibilities.