



# ► Ensuring fair recruitment during the COVID-19 pandemic

June 2020

## ► Introduction

The new reality that the COVID-19 pandemic is creating for countries and societies is having an enormous impact on workers' mobility across borders, particularly due to the imposition of strict limitations on international travel. In addition, the unprecedented reduction in economic activity is critically impacting all workers, including migrant workers, putting them in economic peril, and endangering their health and psychosocial wellbeing. Nevertheless, countries and business are and will continue recruiting workers nationally and internationally, in particular into those sectors considered essential.<sup>1</sup>

Some recruitment practices are adapting quickly to respect COVID-19 prevention measures. This includes shifting to online modalities,<sup>2</sup> looking to recruit nationally (e.g. unemployed migrant workers already in the labour market in the country of destination, or national workers), and preparing for safe and fair recruitment practices once travel restrictions are lifted. Social dialogue is essential to discuss and agree on the measures to be taken.

In this rapidly changing context during the crisis, the implementation of agreed international labour standards, in particular the ILO Employment Service Convention, 1948 (No. 88) and ILO Private Employment Agencies Convention, 1997 (No. 181), in addition to General Principles and Operational Guidelines on Fair Recruitment is essential. This can ensure that the recruitment process of workers, especially migrant workers, is organized in a way that respects the rights of those involved, promotes equality of treatment, addresses the needs of communities of origin and destination, and takes into account the legitimate needs of employers and recruiters.

► I expected to depart [from the Philippines] on 1 April. Now I will go home to our province because I'm currently here staying in Manila. I'll wait [at home] for the call from the manning [recruitment] agency for the possible date of joining the vessel.

► **Philippine man waiting to migrate**  
(destination not detailed)

Source: ILO (2020) *Experiences of ASEAN migrant workers during COVID-19*

The [ILO's General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs \(GPOG\)](#) identify governments' responsibility to respect human rights and labour rights and to promote fair recruitment at all times, both within and across national borders, including in conflict and crisis situations (Operational Guideline 12). The GPOG stipulate that governments should take concrete steps to ensure that enterprises and recruitment agencies operating during crises are not involved with human

<sup>1</sup> Agriculture, care work, manufacturing and construction, among others and depending on national context.

<sup>2</sup> In Belgium, public employment services – VDAB, Forem and Actiris – are prioritising job vacancies on social media via the hashtag #covid19 to support employers in key sectors. They have issued recommendations on how to recruit without physical presence and enhanced their online services with online coaching sessions for jobseekers and over 300 online training opportunities (see: <https://www.ilo.org/global/topics/coronavirus/country-responses/lang-en/index.htm#BE>). In China, local governments have been promoting employment through online job fairs; including for internal migrant workers who are unable to travel between provinces. For further information, see <https://global.chinadaily.com.cn/a/202004/02/WS5e853c68a310128217283cce.html> and [http://www.xinhuanet.com/english/2020-03/27/c\\_138922706.htm](http://www.xinhuanet.com/english/2020-03/27/c_138922706.htm). In India, the Ministry of Labour and Employment is implementing its National Career Service through an online portal, including services such as job matching, career counselling, vocational guidance, information on skill development courses, apprenticeships and internships, for further information, see <https://www.opengovasia.com/india-offers-online-employment-services-during-covid-19/>.

rights and recruitment abuses. Enterprises, agencies and public employment services continue to be responsible for respecting human rights when recruiting workers, including through due diligence assessments of recruitment procedures.

Employers, government institutions and recruitment industry actors should also anticipate and ensure conditions for safe return and reintegration of migrant workers to their countries of origin, as this is an important part of the labour migration and recruitment policy landscape. According to the GPOG, for migrant workers the term recruitment includes [...] “return to the country of origin where applicable.” Support from

governments and social partners to assist migrant workers to reintegrate at home and access decent jobs can contribute to better functioning labour markets. Decent work opportunities at home will also inadvertently lead to fair recruitment as workers have more choice in their migration decision. Effective reintegration in the labour market is therefore an essential component to ensuring fair recruitment and the protection of migrant workers’ rights and well-being. In the context of COVID-19, securing safe return conditions should also include guaranteeing access of migrant workers to health services and testing, including preventive measures and treatment in case of illness.

## ► 2. Challenges in the national and international recruitment of workers

COVID-19 poses significant challenges to workers and their families, as well as to recruitment processes and the future of the recruitment industry.

### Delays in recruitment

Recently recruited migrant workers or those having returned home for their annual leave are no longer able to be (re)deployed due to travel restrictions and delays in processing of documentation, with the obvious risk of losing their jobs. They may already have paid fees and costs related to their recruitment or deployment and face difficulties in obtaining reimbursements. An ILO survey of 309<sup>3</sup> Association of Southeast Asian Nations (ASEAN) migrant workers identified a number of respondents whose migration plans had stalled; an ILO survey with recruitment agencies in the Philippines reported the same issue, from the perspective of the recruitment agencies. Large-scale estimates of the number of workers affected are not currently available, however country level data provides some insights. In Sri Lanka, only half of the planned departures occurred in March 2020, while in April 2020 no migrant workers were deployed. It is estimated that 37,500 overseas employment opportunities were lost between March-May 2020.<sup>4</sup> In Pakistan, 60,000 potential migrants had completed their registration with the Protectorate of Emigrants Offices but could not take up their overseas jobs due to travel restrictions.<sup>5</sup>

►► I paid 1 million kyats [US\$704] to the exam centre and for the passport and visa fee, [as well as] travelling costs to Yangon. I expected to leave [Myanmar] in April, [and now] I have been informed to go after COVID.

► Myanmar woman who is part of a care work trainee programme for migration to Japan

Source: ILO (2020) *Experiences of ASEAN migrant workers during COVID-19*

In Spain, approximately 12,000 Moroccan migrant workers could not be deployed for work during the strawberry-picking season, despite having been granted work permits.<sup>6</sup>

3 178 interviewed workers were in countries of origin (Cambodia, Indonesia, Myanmar, the Philippines, and Viet Nam) and 131 were in countries of destination (including Malaysia, Singapore, Thailand, Hong Kong (China), Saudi Arabia, and United Arab Emirates among others).

4 While in April 2019, 15,000 workers deployed, 0 workers were deployed in April 2020. For further information see Weeraratne, B. (May 2020), “Repatriation and Replacement of Lost Foreign Jobs: Handling Labour Migration in Sri Lanka during COVID-19”, available at: <https://www.lankabusinessonline.com/repatriation-and-replacement-of-lost-foreign-jobs-handling-labour-migration-during-covid-19/>.

5 Source: ILO correspondence with the Pakistan Bureau of Emigration and Overseas Employment.

6 See for example: <https://www.europapress.es/epsocial/migracion/noticia-gobierno-suspende-contratacion-origen-temporeras-marroquies-crisis-coronavirus-20200325182502.html>.

## Lack of financial security and indebtedness due to job losses and initial payment of recruitment fees and related costs

Laid-off migrant workers in countries of destination face several challenges, including:

- Despite the fact that ILO standards and guidelines state that workers should not pay recruitment fees and related costs, many migrants still struggle with debt repayments due to the payment of recruitment fees and related costs prior to departure; they also risk losing deposits or collateral provided to secure loans to pay such fees.<sup>7</sup>
- Payment of wages and other benefits for months worked prior to the COVID-19 outbreak, as well as return air tickets, may be delayed or not paid at all.
- Exclusion from national COVID-19 policy responses, such as wage subsidies, unemployment benefits or social security and social protection measures.
- Inability to return home due to travel bans to countries of origin remaining in place, preventing workers from being repatriated. In other instances, workers are required to cover their own cost of return, which they may be unable to do due to limited flight availability, high prices of available flights, and savings lost in order to bridge the lockdown period in the country of destination.
- Situations whereby migrant workers are stranded, unable to return to their country of origin (which has closed borders), unable to stay in (or return to) a country of destination, and trapped in a border area and/or in a country of transit (e.g. Guatemalan workers intending to work in the United States, but finding themselves stuck in Mexico, unable to neither enter the US nor return to Guatemala). This might result in the migrant workers having to accept any kind of work, no matter the form of recruitment.

► I didn't receive my full wage from my employer. When I asked about it, no explanation was given. [I didn't receive] social security benefits. I had migrated with an agency, but they never contacted me. I didn't contact the labour attaché.

► **Myanmar woman returned from work in the service sector in Thailand**

*Source: ILO (2020) Experiences of ASEAN migrant workers during COVID-19.*

► With a work visa of school teacher, I arrived Dubai in March, 2020. Before I could join my job, all schools were closed due to rapid increase of COVID-19. With no job, I spent my savings to pay the cost of bed space in shared dormitory and arrange food. A Pakistani family needed a live in domestic worker for two months. I accepted this job, as they offered living space and food free of cost. I hope after two months, when the situation improves, I will be able to find better job.

► **Experience of female Pakistani migrant worker during COVID-19, ILO (June 9, 2020)**

<sup>7</sup> See for example, International Trade Union Confederation (June 2020) Covid-19 and Migrant Workers' Rights.

## Further erosion of labour rights and working conditions

In some instances, migrant workers who stay in destination countries during the crisis may be forced to accept poorer terms and conditions of employment, including wages, than those previously offered due to threat of deportation, the decrease in job opportunities worldwide, and the need to keep valid work and residence permits.<sup>8</sup> As job opportunities shrink, national workers may begin to accept jobs that were previously typically taken up by migrant workers, further reducing employment opportunities for migrants. This could lead to recruitment fees and related costs being charged as a large number of workers compete for a diminishing number of jobs, despite the fact that ILO standards and guidelines state that workers should not bear these fees and costs.

Migrant workers also face increasing vulnerability and the risk of exploitation, including being pushed into irregularity, even when they may have migrated through regular recruitment channels. The latter can occur due to the expiration of work permits and/or job loss. In some countries, work permit prices have increased three-fold, resulting in employers being reluctant to renew them, possibly placing workers at risk of falling into an irregular situation.<sup>9</sup>

## Enhanced risk of abuse linked to recruitment during the COVID-19 pandemic

Migrant workers who continue to be recruited and deployed in essential sectors during the crisis may face heightened risk of exposure to COVID-19 during travel and upon arrival. Information received from recruitment agencies themselves indicated that they face challenges in adapting quickly to (sometimes rapidly evolving) safety regulations during travel,<sup>10</sup> even when they are committed to fair recruitment and safety of workers. A number of media reports and practitioners<sup>11</sup> point to the fact that migrant workers are often put in situations where access to personal protective equipment (PPE) is limited and that do not permit compliance with social distancing requirements. This is often the case when they are placed in quarantine camps upon arrival or are housed in dormitory or communal accommodations or within the household of employers. The exposure of migrant women to enhanced risks of abuse in this crisis has also been reported by a number of UN experts and practitioners.<sup>12</sup> An ILO survey also found that some workers were recruited for jobs that were no longer available.<sup>13</sup>

► I just arrived in Thailand [April 2020] and have not yet gotten a job. Initially my plan was to get a job at the same construction site where my husband is working, but there is no position vacant at the moment.

### ► Myanmar woman migrant worker in Thailand

Source: ILO (2020) *Experiences of ASEAN migrant workers during COVID-19*.

8 The issue of wage theft has been reported in several countries of destination. See for example Rejimon Kuttappan, "Wage theft and no mechanism to fight leaves Indian migrants in a fix", in *The Lede*, 2 June 2020.

9 Source: ILO interview with recruitment agencies in Bangladesh.

10 Source: ILO interview with selected recruitment agencies, including CIERTO Global recruitment agency in Mexico.

11 See for example European Public Service Union (17 April 2020) *Overlooked: migrant workers in the COVID-19 crisis.*, published by the European Public Sector Union EPSU: <https://www.epsu.org/article/overlooked-migrant-workers-covid-19-crisis>

12 See for example: OHCHR (3 April 2020) *UN experts call on Governments to adopt urgent measures to protect migrants and trafficked persons in their response to COVID-19*. See also UN Women (2020) *Guidance Note: Addressing the impacts of the COVID-19 pandemic on women migrant workers*, available at <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/guidance-note-impacts-of-the-covid-19-pandemic-on-women-migrant-workers-en.pdf?la=en&vs=227>.

13 ILO (2020) *Experiences of ASEAN migrant workers during COVID-19*. Available at [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms\\_746881.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_746881.pdf)

Many of the returnees [...] cannot find a job and are desperate, as many borrowed money to cover their travel expenses and are now in a situation of debt crisis.

► **Workers' organisation representative, Guatemala.**

*Source: ILO (2020) Rapid assessment of the impact of COVID-19 on labour migration (Guatemala) – forthcoming*

Governments that are continuing with deployment and admission of migrant workers have introduced additional requirements, among them administrative measures, mandatory health checks or quarantine requirements.<sup>14</sup> While necessary for the safety of workers and employers, recruitment and deployment timelines will increase.

Due to travel restrictions, migrant workers may also be increasingly forced to rely on unregulated intermediaries, including informal or unlicensed labour brokers, and unregulated social media or online recruitment platforms.<sup>15</sup> Associated risks for migrant workers might include additional costs, ending up in an irregular situation due to recruitment processes circumventing travel restrictions, receiving deceptive information about job offers, and being offered lower wages and experiencing abusive

working conditions or being trafficked. Surveys conducted by the ILO have already indicated that the costs of such informal services are increasing, including for facilitating visa applications or transport across borders.<sup>16</sup>

The pandemic has exposed discriminatory practices vis-à-vis migrant workers, for example in the agriculture sector in the US through the H2-A visa scheme.<sup>17</sup> There are rising concerns that workers coming from countries with a high incidence of COVID-19 might be discriminated against in the recruitment process. These challenges might be exacerbated for migrant workers who are not unionised because they work informally or are in an irregular situation, or due to legal restrictions on their freedom of association.<sup>18</sup>

## Impact on the private recruitment industry

Recruitment agencies that seek to comply with national labour laws and international labour standards may face increased costs to recruit workers,<sup>19</sup> have difficulties in meeting their clients' demand, be forced to significantly reduce or even shut down their operations due to a lack of business opportunities and face increased unfair competition by unscrupulous intermediaries.

According to the World Employment Confederation, the activities of the recruitment agency sector in many countries has dropped below levels seen during the recession following the 2008 global financial crisis.<sup>20</sup> An ILO survey among 54 recruitment agencies in the Philippines found that 78 per cent of respondents

14 For example, migrant workers wishing to depart the Philippines for Hong Kong (China) are required to fill out a declaration letter confirming they understand the situation and risk of coronavirus. The letter needs to be notarised by the Philippines Overseas Employment Authority or a public notary. Upon arrival in Hong Kong (China), workers undergo a health declaration, testing and home quarantine. For further details, please see: <https://www.fairagency.org/answers/travel-from-philippines-to-hong-kong-during-times-of-covid-19-coronavirus/>

15 According to EUROPOL, enhanced border control measures and travel restrictions have led to a diversion of smuggling activities to land and sea routes. The loosening of travel and movement restrictions throughout 2020 will likely result in an increasing movement of irregular migrants, while at the same time smugglers may limit the number of people moved during individual trips, further driving up the price they ask migrants to pay. For further information, see EUROPOL European Migrant Smuggling Centre, 2020, "European Migrant Smuggling Centre, 4th Annual Report, 2019.", available at <https://www.europol.europa.eu/publications-documents/emsc-4th-annual-activity-report-%E2%80%93-2019>."

In June, UNHCR stated that sea departures from Tunisia to Europe between January-May 2020 have been four times higher than the same period last year. For more information, see UNHCR, June 2020, "UNHCR saddened by tragic loss of lives off Tunisian Coast, concerned by rise in sea departures", available at: <https://data.unhcr.org/en/documents/download/77058>.

Previous ILO studies have found that restrictions on migration in Nepal, e.g. bans, had little effect on migrants' decision – migrants "insisted they would leave nonetheless, even if they had to travel irregularly". For further information, please see ILO (2015) No easy exit: migration bans affecting women from Nepal", available at: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_428686.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_428686.pdf). Other practitioners have cited similar concerns, see for example Responsible Recruitment Toolkit (2020) "Practical guide to responsible recruitment during COVID-19, available at: <https://responsiblerecruitmenttoolkit.org/covid19/>."

16 ILO (2020) Experiences of ASEAN migrant workers during COVID-19, available at: [https://www.ilo.org/asia/publications/issue-briefs/WCMS\\_746881/lang--en/index.htm](https://www.ilo.org/asia/publications/issue-briefs/WCMS_746881/lang--en/index.htm).

17 See for example Centro de los Derechos del Migrante (2020) Ripe for reform: abuses of agricultural workers in the H-2A Visa Program", available at: <https://cdmigrante.org/wp-content/uploads/2020/04/Ripe-for-Reform.pdf>.

18 For further information, please see ILO (2016) Promoting fair migration: General survey concerning the migrant workers instruments", in particular paragraphs 24, 286, 409 and 531.

19 See for example Association of Labour Providers (22 April 2020) Increased costs for provision and use of labour due to the coronavirus pandemic.

20 See for example World Employment Confederation (June 2020) Development of the agency work sector during the COVID-19 pandemic, available at <https://wecglobal.org/uploads/2020/06/Agency-work-trends-during-covid-19.pdf>

had partially or fully ceased operations.<sup>21</sup> Employers' demand for recruitment had reduced in some sectors, namely domestic work and hospitality, while increasing in others, especially healthcare. Respondents estimated it would take them between 1 to 6 months to recover from the crisis once restrictions on travel were lifted.<sup>22</sup> At the same time, private employment agencies have played an essential role in finding employment for displaced workers from sectors in decline, to essential sectors in immediate need of workers. In the Netherlands, out of the 45,000 workers that lost their jobs, 22,000 were immediately reallocated to a new job, of which 16,000 in an essential sector.

Employers also face additional costs, for example, higher airfares, the cost of quarantine upon workers' return to their jobs, providing access to medical testing, additional training requirements on new policies or procedures, and/or the costs of making adaptations to the workplace.

Business and recruitment agencies' due diligence processes might be restricted to online and remote activities, hence limiting their capacity to monitor all steps and actors involved in the recruitment and placement process.

## Challenges to effective government oversight and regulation

Labour inspectors that may already have limited capacity to monitor compliance with recruitment-related regulations are now facing additional challenges. These include reduced operational capacity due to working arrangements and limited mobility, inspectors' fear of contracting the virus, and increased distrust from workers. In cases where the mandate of labour inspectors covers workers' housing,<sup>23</sup> this could be intensified given the heightened risk that emerges from the challenge of social distancing in these locations; and where this mandate does not exist, it could also be expanded. ILO estimates indicate that in certain developing countries, less than one per cent of the national budget is allocated to labour administration, of which labour inspection systems receive only a small fraction. Hence, the pandemic will stretch scarce resources even more thinly.<sup>24</sup>

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Another important challenge is to be up to date with administrative regulations from the government of the [country of destination] as they are constantly changing... Costs have also increased given current regulations on transportation that reduces the amount of people allowed to travel in one bus, meaning we are paying for more buses in some countries of origin.

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*ILO interviews with CIERTO Global, recruitment agency operating in Mexico*

21 In the Philippines, POEA Memorandum Circular Number 7 was published on 16 March 2020 specifying that services, such as contract processing for departing OFWs and the issuance of over-the-counter Overseas Employment Certificates, would be suspended until further notice (available at <http://www.poea.gov.ph/memorandumcirculars/2020/MC-07-2020.pdf>). At the time of the survey in May 2020, there was no POEA advisory yet on the resumption of these services. Similarly, in Nepal, Sri Lanka, and Pakistan, recruitment agency associations have reported full cessation of their operations.

22 ILO (2020) Rapid Needs assessment: impact of COVID-19 on private recruitment agencies, forthcoming.

23 Whether labour inspectors have a mandate for inspecting accommodation provided by employers depends on whether the national law grants this authority to inspectors. In Singapore, OSH inspectors from the Ministry of Manpower have been assigned to assist dormitory management and workers to prevent and mitigate viral infections (for further information, please see <https://www.mom.gov.sg/covid-19/advisory-for-dormitory-operators-on-safe-living-measures-foreign-worker-dormitories>). In Jordan, an MoU between the Ministry of Health and Ministry of Labour delegates responsibility to the MOL for inspection of workers' housing provided by garment factories, for further information please see ILO (2020) Better Work Jordan Annual Report.

24 For further information, please see ILO "International Labour Standards on Labour Inspection", <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/labour-inspection/lang--en/index.htm>

### ▶ 3. How the ILO is responding

The ILO is monitoring changes in policy, legislation and approaches taken by governments, employers' and workers' organizations and recruitment agencies to respond to these challenges and the changing recruitment landscape. This section, to be updated regularly, presents selected ILO responses. Annex 1 collects some practices and initiatives taken by other stakeholders.

The ILO, through its [Fair Recruitment Initiative](#), is monitoring how COVID-19 is affecting international recruitment practices. The ILO is conducting rapid assessments with tripartite partners, civil society and the recruitment sector with a view to identifying measures that can develop and strengthen fair recruitment policies, laws and practices, promote rights, strengthen capacities, develop knowledge and build partnerships. Assessments with recruitment agencies are being conducted in Tunisia, Nepal, the Philippines, and Sri Lanka. Broader rapid assessment exercises on the impact of COVID-19 on migration and recruitment will be conducted in Pakistan, India, Mexico, Guatemala, Madagascar and the IGAD,<sup>25</sup> Southern Africa Development Community (SADC) and Central America regions. The ILO will continue monitoring recruitment fees and related costs, including through the [SDG 10.7.1 methodology](#).

At the regional and country level, the ILO is providing support to constituents across countries and regions in a number of ways:

- ▶ In South America, the ILO is supporting the development of a network of public employment agencies to facilitate labour mobility of Venezuelan refugees and migrants, migrant workers, and other populations. The embedding of fair recruitment practices as supported by the ILO is a key area of action within this network.
- ▶ In Central America and Sri Lanka, the ILO is developing guidance on occupational safety and health (OSH) and returning to work during and after COVID-19. Some of this guidance is sector specific, and modules for migrant workers are also being developed. In Mexico, the ILO's work includes guidance on OSH during recruitment, developed in collaboration also with private recruitment agencies.
- ▶ In Asia, ILO supported Migrant Worker Resources Centres are providing outreach and direct support to migrant workers, including access to legal remedy in instances of recruitment-related violations (this

includes work in Cambodia, Laos PDR, Thailand, Myanmar, Viet Nam and Indonesia).

- ▶ In Hong Kong (China), the ILO is working with trade unions to support their case management capacity to address complaints related to recruitment and employment conditions during the COVID-19 pandemic.
- ▶ In Tunisia, the Tunisian General Labour Union (UGTT) Migrant Focal Points have mobilized to help migrant workers, with support of the ILO to:
  - Conduct a census of migrant workers in collaboration with municipalities and IOM
  - Undertake a rapid assessment of the impact of COVID-19 on migrant workers;
  - Raise awareness on COVID-19 protection measures and the provision of safety kits to migrant workers (masks, hydro alcoholic gel, gloves, etc.);
  - Maintain regular contact with medical services for referrals to undergo COVID-19 screenings and to advocate for free care; and
  - Develop video spots on COVID-19 protection measures targeting migrant workers in specific sectors of industries (domestic work, tourism, construction, agriculture and fishing).

### ▶ Providing COVID-19 guidelines for all companies is the key to success in safeguarding jobs.

#### ▶ Employer, Madagascar

*Source: ILO COVID-19 rapid assessment survey report (forthcoming)*

In Ethiopia, Kenya, Pakistan, Sri Lanka and Uganda, the ILO will provide support to facilitate the socio-economic reintegration of migrant workers returning due to the COVID-19 crisis. Overall, interventions need to be adapted to the evolving recruitment and migration landscape, keeping in line with ILO international labour standards and the General Principles and Operational Guidelines for Fair Recruitment.<sup>26</sup> Measures implemented now need to pave the way for a new "better future of work" – a post-COVID-19 policy landscape that offers an opportunity to move towards fairer recruitment, as part of improved migration governance responses.

<sup>25</sup> IGAD Member States include Djibouti, Ethiopia, Eritrea, Kenya, Somalia, Sudan, South Sudan and Uganda.

<sup>26</sup> ILO also supports Member States in strengthening national recruitment mechanisms also as part of ongoing efforts to implement the Global Compact on Safe, Orderly and Regular Migration. ILO is a member of the Executive Committee of the UN Network on Migration.

## ► 4. Recommended policies and measures

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In order to ensure the implementation of fair recruitment practices, and in line with International Labour Standards, especially ILO Convention No. 181, and the ILO General Principles and Operational Guidelines on Fair Recruitment (GPOG), the ILO recommends that governments, workers' and employers' organizations, recruitment agencies and civil society organisations, consider the following policies and measures.

### Effective regulation and oversight

- Increase inspection and government oversight of recruitment practices, readjusting strategies in line with COVID-19 realities and to the guidance provided by ILO Convention No. 181. Social partners' initiatives in this area, such as the International Trade Union Confederation (ITUC) Recruitment Advisor, can facilitate monitoring of recruitment practices, or promote compliance among their members, including through adoption or adaptations of voluntary code of conducts (e.g. for the associations of recruitment agencies). Of particular importance is the monitoring of ongoing or delayed recruitment processes to reduce the risk of abusive and fraudulent practices. Attention should be paid to ensure that recruitment fees or related costs (e.g. related to travel, visa extensions, quarantine measures, and health screenings), are not shouldered by migrant workers. Through social dialogue, countries of origin and destination should identify the responsible party to cover such costs (GPOG General Principle 7; Operational Guideline 1, 3 and 5).
- Restitution of any recruitment-related costs and fees paid by migrant workers who have not been able to deploy. Migrant workers should be supported to liquidate any contracts and receive any payments due to them under their recruitment agreements, with due respect to contractual obligations.
- Ensure that additional health/medical checks imposed on migrant workers are not used to collect information about other pre-existing conditions in order to discriminate against workers during the recruitment process<sup>27</sup> (GPOG Operational Guideline 19).
- Enhance the capacity of public employment services and private employment agencies to facilitate recruitment, labour market transparency, mobility, and skills-jobs matching, especially for migrant workers who remain in countries of destination but are unemployed. More effective employment services can help migrant workers find alternative employment at destination and de facto constitute an alternative to mass deportation of migrant workers that may later need to be re-recruited.
- Develop specific recruitment channels into sectors that are considered essential, with full respect of principles of equal treatment and COVID-19 related safety and sanitary regulations. For example, in the agriculture sector of many developed economies, visa extensions have been provided and regularization pathways are being debated.<sup>28</sup>
- In response to the COVID-19 pandemic, urgent and large-scale public procurement is taking place to meet critical demand, including for essential equipment such as PPE and ventilators. Despite the urgency of public procurement during the COVID-19 pandemic, officials must continue to apply due diligence in their operations and supply chains, and in particular be cognisant of existing and emerging risks to fair recruitment in vulnerable sectors and supply chains (GPOG Operational Guideline 14).

<sup>27</sup> See also WHO (April 2020) Preparedness, prevention and control of coronavirus disease (COVID-19) for refugees and migrants in non-camp settings. ", available at: [https://www.who.int/publications-detail-redirect/preparedness-prevention-and-control-of-coronavirus-disease-\(covid-19\)-for-refugees-and-migrants-in-non-camp-settings](https://www.who.int/publications-detail-redirect/preparedness-prevention-and-control-of-coronavirus-disease-(covid-19)-for-refugees-and-migrants-in-non-camp-settings). The Guidance states that "the right to COVID-19 preparedness, prevention and control for refugees and migrants should be exercised through non-discriminatory (...) practices. The health conditions experienced by refugees and migrants, including those with COVID-19 infections, should not be used as an excuse for imposing arbitrary restrictions, stigmatization, detention, deportation and other forms of discriminatory practices."

<sup>28</sup> See ILO Brief, 2020, [Seasonal Migrant Workers' Schemes: Rethinking Fundamental Principles and Mechanisms in light of COVID-19; and practice of the UK's Gangmaster and Labour Abuse Authority \(GLAA\) included in Annex 1.](#)

## Protect workers from abusive and fraudulent recruitment practices and advocate for their rights

- ▶ Governments should consider introducing a policy that relieves migrant workers of the debts they may have incurred during their recruitment and migration, at least in the short and medium term. At the same time, they should continue to ensure that recruitment fees and related costs should never be paid by workers, in line with ILO Convention No. 181 and the GPOG. Debt repayments to microfinance companies should be subject to a moratorium, as has been put in place for businesses and mortgages in some contexts.<sup>29</sup> Debt owed to brokers or moneylenders for migration should be similarly placed on hold. While many of these actors operate outside the control of governments, a strong statement, or an emergency policy clearly prohibiting the enforcement of migration debts and charging of interest on these debts at this time could greatly assist many migrant workers returning home to face situations of unemployment.
- ▶ In countries where fines are applicable for migrant workers who return prior to their contract expiration, a moratorium on administrative fines for early return should be put in place.
- ▶ Recruitment agencies in countries of origin should coordinate with counterparts and/or employers in destination countries to ensure that contracts of workers are fulfilled and workers are safe, especially related to PPE, wages, social security, rest periods, and grievance redress.
- ▶ Governments should ensure that all migrant workers, including those in irregular situations, have access to legal remedies and compensation, including for recruitment-related violations, and interpretive services to assist in their access to justice in these cases (GPOG, General Principle 13).
- ▶ Workers' organizations and civil society organization should continue advocating for the promotion of migrant workers' rights during the pandemic and for the effective application of the ILO GPOG and their accompanying definition of recruitment fees and costs in the context of COVID-19. To avoid or reduce stigmatization or discrimination of migrant workers, it is also important to dispel the growing perception that returning or deported migrant workers are infected with COVID-19.

## Ensure access to accurate and reliable information and essential services

- ▶ Governments, employers, enterprises, labour recruiters, and workers organizations' should disseminate clear and accurate information to migrant workers on COVID-19 and associated risks, including in terms of occupational safety and health at work, implications on recruitment procedures and/or on contractual obligations. Trade unions have a role to play in providing workers with accurate information on COVID-19 risks, protective measures and available services (GPOG, General Principle 10, Operational Guideline 11)
- ▶ Uphold coordination and communication between tripartite partners, diplomatic missions, and recruitment intermediaries in countries of origin and destination to monitor the recruitment of migrant workers, particularly those recruited rapidly to meet labour shortages during the crisis (e.g. in the agricultural, health sectors, or manufacturing (e.g. of PPE materials)).
- ▶ Take measures to support actors that promote fair recruitment
- ▶ Together and in consultation with employers' organizations, support private employment agencies associations and licensed and compliant private recruitment agencies to overcome direct impacts on their business operations, by ensuring equal access to government business relief plans in line with ILO guidance on "[Interventions to support enterprises during the COVID-19 pandemic and recovery](#)".<sup>30</sup>
- ▶ Encourage licensed and compliant private employment agencies in countries of origin to support workers who may have been voluntarily or forcibly returned or whose deployment is significantly delayed to find alternative employment opportunities in their country of origin, in collaboration with national employers' organizations and other relevant national counterparts.

29 See for example assistance to commercial, business and retail customers affected by coronavirus in Thailand (<https://www.krungsri.com/bank/en/NewsandActivities/Krungsri-Banking-News/relief-measures-customers-impacted-covid-19.html>); The Central Bank of West African States (BCEAO) has announced a series of measures to support the microfinance sector (<https://www.bceao.int/fr/reglementations/avis-ndeg-008-04-2020-relatif-aux-mesures-en-faveur-des-institutions-de>)

30 For example, the Government of Tunisia has launched several measures to protect small and medium enterprises, inclusive of private employment agencies that deploy workers abroad. These include postponing tax declarations (to the end of May 2020), halting fiscal controls, allowing distressed enterprises to reschedule debt payments for up to seven years, and the suspension of late-payment penalties for three months.

## Lay the groundwork to enable fair recruitment as economies recover from COVID-19

- ▶ Governments should develop and adapt new technologies to implement e-recruitment systems, drawing on lessons learnt from the Employment Permit System in the Republic of Korea, eMigrate in India and Musaned in Saudi Arabia.
- ▶ Countries of origin and destination should review bilateral labour agreements and standard employment contracts to ensure that social protection measures and conditions for safe return are included in relevant provisions; in line with the model BLA provided in the ILO Migration for Employment Recommendation (Revised), 1949 (No. 86) and forthcoming guidance on the development of Bilateral Labour Agreements (GPOG, Operational Guideline 13 and 23).
- ▶ Consider the full recruitment cycle when developing (labour) migration strategies, to ensure that return and reintegration policies and programmes are duly considered and funded, ensuring due consultation with social partners (GPOG, Operational Guideline 4).
- ▶ Continue to deliver training and capacity building for private employment agencies on International Labour Standards and GPOG to ensure smooth resumption of fair recruitment practices (GPOG, General Principle 11).<sup>31</sup>

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 In the case of the deported community, a reception protocol is necessary that supports their reintegration, and to facilitate access to their identity documents for them and their relatives who are forced to return or even come to Mexico for the first time.

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*ILO COVID-19 rapid assessment survey report (forthcoming)*

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<sup>31</sup> See for example practices by the World Employment Confederation and the UK Association of Labour Providers included in the Annex.

## ► Annex 1: Stakeholder practices to promote fair recruitment during COVID-19

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This section includes a series of emerging practices that ILO constituents have adopted to address recruitment-related challenges. These practices are categorized under broad typologies linked to some of the recommended policies and measures identified above. This annex is meant to be a living document to be regularly updated with new policies and practices.

### Effective regulation and oversight

- In the UK, the **Gangmaster and Labour Abuse Authority (GLAA)** has issued a brief on [Temporary Licensing and COVID 19](#) with a number of relevant provisions aimed at mitigating the effects on labour supply to critical food supply sectors. The Brief explains how the GLAA will support the maintenance of food supply chains by introducing a 3-month temporary licence to facilitate the recruitment of workers into food production.
- The UK Government has published [guidance for business<sup>32</sup> about addressing and reporting on modern slavery risks](#) during the coronavirus pandemic, including reference to ensuring that business conduct due diligence during the recruitment process to “ensure that vulnerable workers are not being exploited by third parties seeking to profit from heightened demand.”
- In the Netherlands, social partners have developed a dedicated safety protocol for safe housing, transport, work and care of migrant workers. For further information please consult the website of the [temporary employment agency association Algemene Bond Uitzendondernemingen \(ABU\)](#).

### Protect workers from abusive and fraudulent recruitment practices and advocate for their rights

Trade unions worldwide actively work to promote and protect migrant workers' rights during the pandemic. There are many examples of actions taken to protect migrant workers in the context of COVID-19. Below are just a few examples to illustrate the kinds of actions taken:

- In June 2020, the **ITUC<sup>33</sup>** issued a statement to highlight migrant workers' rights during the COVID-19 pandemic. The ITUC supports the call issued by UN human rights experts to governments to suspend enforced return and, in relation to the issue of unpaid wages, the ITUC supports the appeal for a free of cost, expedited, accessible and efficient Transitional Justice Mechanism. This system should address grievances including wage claims and labour disputes of repatriated workers who have lost their jobs as a result of the pandemic. The ITUC statement reiterates that the ILO GPOG and the subsequent definition of what constitute recruitment costs to be borne by the employer go a long way in clarifying responsibilities of governments, employers and labour recruiters; and confirm that a recruitment process for employment abroad includes the facilitation of voluntary return to the country of origin. In addition, they confirm that enterprises, agencies and international assistance programmes operating in conflict and crisis situations should not contribute to human rights abuses. Corporations must be held to account to respect human rights when recruiting workers, including through human rights due diligence assessments of recruitment procedures, and to address adverse human rights impacts with which they are involved.

<sup>32</sup> See for example <https://www.gov.uk/government/publications/coronavirus-covid-19-reporting-modern-slavery-for-businesses/modern-slavery-reporting-during-the-coronavirus-covid-19-pandemic>

<sup>33</sup> See International Trade Union Confederation Covid-19 and Migrant Workers' Rights June 2020, available at [https://www.ituc-csi.org/IMG/pdf/covid\\_19\\_migrant\\_workers\\_rights.pdf](https://www.ituc-csi.org/IMG/pdf/covid_19_migrant_workers_rights.pdf)

- ▶ The **SARTUC**<sup>34</sup> Statement on COVID-19 “Work Together to Ensure the Workers’ Rights in Times of Global Crisis 131st May Day” calls upon governments to promote social dialogue to address social and economic impacts due to COVID-19; upgrade social protection programmes; ensure migrant workers and their families are protected from economic hardship; ensure cooperation and coordination between countries of origin and destination to facilitate return; consider ratification of ILO Conventions Nos. 97, 143 and 189; and ensure that the returnee migrant workers from the infected countries can access health care including testing and treatments for COVID-19.
- ▶ In a Joint Statement on the 131st May Day (2020), the ASEAN Trade Union Council (ATUC), Arab Trade Union Council (Arab TUC), South Asian Regional Trade Union Council (SARTUC), African Regional Organization of the International Trade Union Confederation (ITUC-Africa) and International Trade Union Confederation (ITUC-Asia Pacific) issued a joint statement. It appeals to governments and employers in countries of destination to provide access to healthcare, ensure that migrant workers who have lost jobs to receive their entitled salaries, wages and benefits before they return; stop immediate deportation; provide migrant workers with timely and accurate information on COVID-19; ensure migrant workers infected with COVID-19 receive access to proper healthcare; and to strengthen occupational health and safety measures. The appeal also calls on governments in countries of origin to ensure workers receive their salary and benefits prior to returning home; prepare quarantine centres and ensure that returning migrant workers are able to access testing and treatment for COVID-19; update social protection programmes; and ensure migrant workers and their families are protected from economic hardship.

Social partners have also come together to release joint statements to advocate for the protection of workers during the COVID-19 pandemic.

- ▶ On 29 April 2020, UNI Europa and WEC-Europe released [Joint Recommendations of the sectoral social partners of the temporary agency work industry](#). The joint recommendations call on the temporary agency work sector to provide frontline workers with adequate health and safety protection; to ensure access to health and safety instructions and tailored training; to strengthen the labour market reallocation role of temporary

work agencies; and to work collaboratively with other actors to contain the pandemic and protect workers. The joint recommendations also call on national policy makers to conduct information campaigns; guarantee temporary agency workers access to healthcare; ensure income protection for temporarily laid off agency workers; to recognize the temporary agency work industry as an “essential service” during the pandemic; and to ensure that temporary work agencies have equal access to government support programmes.

## Take measures to support private recruitment agencies to continue operate while complying with fair recruitment practices

- ▶ The **Government of Tunisia** has launched several measures to protect small and medium enterprises, inclusive of private employment agencies that deploy workers abroad. These include postponing tax declarations (to the end of May 2020), halting fiscal controls, allowing distressed enterprises to reschedule debt payments for up to seven years, and the suspension of late-payment penalties for three months.<sup>35</sup>

## Lay the groundwork to enable fair recruitment as economies recover from COVID-19

- ▶ The **World Employment Confederation (WEC)** has set up a [dedicated COVID-19 webpage](#) with relevant resources, links to WEC members’ dedicated websites as well as policy guidance and experts’ opinions on the subject, highlighting what solutions WEC members have implemented to protect workers’ health and jobs, with a particular focus on the impact on agency work. The WEC is collecting information on their member’s initiatives in response to COVID-19 through an [online platform](#). WEC [regularly reports](#) on the impact of COVID-19 on the agency work sector.
- ▶ The **Association of Labour Providers**, an association of recruitment agencies in the UK that promotes responsible recruitment and good practices in the sector, has set up a [web portal](#) dedicated to COVID-19 with information and publications about the impact of the virus and

<sup>34</sup> South Asian Regional Trade Union Council (SARTUC) is a regional federation of national level trade unions of South Asia.

<sup>35</sup> For further information, please see <https://www.economie.gouv.fr/covid19-soutien-entreprises/les-mesures?clid=CKqauoXPjeoCFRS6GwodP7IOpA> as well as [http://www.investintunisia.tn/Fr/covid-19-principales-mesures-de-soutien-aux-entreprises\\_50\\_201\\_D408](http://www.investintunisia.tn/Fr/covid-19-principales-mesures-de-soutien-aux-entreprises_50_201_D408)

regular member updates and guidance. It also includes a “Coronavirus Support Forum” for their members and regular calls with agricultural labour providers. The ALP has also set up the Spare Worker Availability Portal (SWAP) and [Essential Workers Needed Portal \(EWNP\)](#) to support displaced workers to be transferred to where work is available.<sup>36</sup>

## Ensure access to accurate and reliable information and essential services

- ▶ In the **Philippines-Hong Kong (China) corridor**, both governments are working closely with recruitment agencies to ensure that Filipino migrant workers are still able to travel when they have valid employment contracts and are supported by recruitment agencies on both ends of the corridor. A particular case of support to Filipino migrant workers is being facilitated by the Fair Employment Agency, which ensures a transparent flow of information to employers and workers through its website and distribution of leaflets.<sup>37</sup>
- ▶ The **Government of the Philippines**, through the Overseas Workers Welfare Administration, is providing cash assistance (of 10,000 Philippine pesos, approximately US\$200 in June 2020) to returning migrant workers during the mandatory community quarantine.
- ▶ In **Pakistan**, information is being disseminated via social media and government websites. The Bureau of Emigration and Overseas Employment and Migrant Resource Centres have been disseminating information on the government’s initiatives, plans on labour migration including flight schedules, air fares, authentic sources for purchase of air tickets; mandatory safety measures for air travel

for returning migrant workers; messages on prevention, health care and health promotion; and how to register returning migrant workers through the Overseas Employment Corporation website.

- ▶ In **Mexico**, the fair recruitment agency CIERTO is ensuring agricultural workers have access to precise and updated information on preventative measures and working rights, and that this information reaches workers in indigenous communities, who might be interested in migrating to the US. The information has been translated to the indigenous languages spoken by some of the workers they recruit and is shared through videos or leaflets in those cases that have limited access to the internet with the support of local counterparts. CIERTO and their clients/ employers have jointly decided to ensure living and workplace arrangements are in place and that those are based on preventative measures and can also support quarantining workers if necessary. Prior to sending workers, CIERTO has made agreements with employers on medical insurance to guarantee coverage of COVID-19 in addition to negotiating payment of full salary if workers are quarantined or get sick. As CIERTO is responsible for transportation, migrants are provided with travel kits that include masks and antibacterial gel. The number of workers who can travel in the same bus has been reduced, (both in country of origin and destination). To be able to track health conditions of workers during travel, stay and return, CIERTO has provided a medical card that is updated by a medical professional prior to departure from the community of origin, during travel in border checkpoints, and once workers arrive at their final destination. Lastly, CIERTO, in collaboration with ranches, has elaborated recommendations on whether certain measures to be adopted by ranches are potentially discriminatory or violate any labour and human rights.

<sup>36</sup> SWAP allows organizations to post details of available workers that can be used by businesses who need workers. EWNP enables organizations to post details of essential workers they need and be contacted by businesses who have work or workers available.

<sup>37</sup> Information to employers includes advice on processing documentation, travel restrictions, statutory home leave and how to defer it, and discussions with domestic workers on salary payments, among others. Advice to domestic workers includes information on COVID-19, how to seek medical help, salary negotiation, contract termination, avenues for support, quarantine measures, and a recommendation that employers should additional expenses that may be incurred, such as for the visa extension fees, additional transportation expenses or termination settlements. See also ILO (2020) Protecting migrant workers during the COVID-19 pandemic, available at [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/publication/wcms\\_743268.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_743268.pdf).

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