



# Good Practices from EU and Regional Countries on Public-Private Cooperation and Dialogue of Employment Services

**Report Findings**  
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# 1. Introduction and Background

The purpose of this document is to present results of research on good practices on public-private cooperation and dialogue of employment services in EU (European Union) and regional countries and to describe best practices found.

The following are the key findings:

EU strongly recommends and supports cooperation between public and private employment services as a way to reach employment target set by the EU Strategy 2020<sup>1</sup> – Increase in employment rate to at least 75% by 2020. PES has assumed a pivotal role as provider of Active Labour Market Policies (ALMPs) and promoter of cooperation between (public, private and third sector) employment services, education and training providers, NGOs and welfare institutions.

Examples of cooperation are found across the Europe in the last 20 years. The models of cooperation vary in dependence of national legal framework and strategies, and labour market conditions. The most advanced practices are those found in UK and The Netherlands, while the regional countries are well behind them. There are a lot of examples of cooperation between Public Employment Services (PES) and not-for profit organizations in regional countries, but cooperation between PES and for-profit organization is rare and mostly initiated by international donors. Recently there have been more initiatives on cooperation between PES and training providers in order to improve employability of unemployed people through improving their skills or prequalification.

The research on good practices is conducted by Kolektiv Ltd., Bosnia and Herzegovina's private sector consultancy and service provider specialized for labour market services, on the request of EYE Kosovo project. The intention is to bring examples of the best practices in Kosovo and to inform relevant stakeholders, collect their feedback and start a debate amongst them on future public-private employment services cooperation.

The PES in Kosovo is a primary authority within the Ministry of Labour and Social Welfare (MLSW) responsible for implementing a variety of active labour market programmes, and helps match supply and demand on the labour market through information, training, placement and active support services. Recently there is approved a new law (No. 04/L-205) that regulates the establishment, organization, operation, duties, responsibilities and funding of the Employment Agency of the Republic of Kosovo, which will start with operation in January 2015. By this law, the Employment Agency of Kosovo is a public service provider in the labour market, which has mandate for labour market management and implementation of employment and training policies. The same law foresees the licensing of non-public employment service providers by the MLSW.

The Private Employment Services (PRES) in Kosovo are at an emerging phase of development. The newspapers and on-line job search engines (job portals) are most common channels people get information about job vacancies. In addition, several employment agencies and HR

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<sup>1</sup> European Commission, (2010), EUROPE 2020 - A European strategy for smart, sustainable and inclusive growth. Brussels

consultancy companies deal with job matching, recruitment and HR development, but in a smaller scale compared to newspapers and job portals.

The ambitious employment rate target set by the Sectorial Strategy 2020<sup>2</sup> – to increase employment of jobseekers to 12,000 compared to 4,729 in 2013 – will only be met by considerably increasing the participation of groups that are currently under-represented in the labour market such as women, younger and older workers, the disabled, the low-skilled, ethnic minorities and migrant workers. As the central public actor in the labour market, PES has a key role in activating these groups and facilitating their transition into the labour market.

As PES are expected to do more and better with less resources, a consensus is emerging among policy-makers that they cannot do everything on their own, therefore they have to collaborate with other private actors (job portals, employment agencies, head hunters, HR companies, etc.) involved in employment services and to support and promote Public-Private Employment Services Cooperation (PPES). As result, the MLSW approached to EYE Kosovo project with the request to facilitate them on exploring best practices from EU and regional countries around public and private employment services in order to:

- improve cooperation between the different employment services (public, private and non-profit) in Kosovo,
- define fields where they can deliver complementary services, and
- establish regulatory framework which will not hinder the overall development of the non-public employment sector but will protect the overall public interest.

The study is structured as follows:

Section 1 provides introduction and background of the research;

Section 2 provides definition of main concepts;

Section 3 provides an overview of EU strategies and initiatives;

Section 4 contains results of an analysis of the present non-public employment service providers licensing and legislation aspects on public-private cooperation and dialogue of employment services from EU and regional countries.

Section 5 contains results of an analysis of the general information of PPES and origin and reasons for partnerships and the main areas of cooperation. A key part of the study is a series of detailed case-studies looking at a range of different examples of partnership arrangements.

## **Methodology**

Results in this research are gathered by secondary data analysis.

Analysed practices are from 3 neighbouring and 3 EU countries which are chosen for the purpose of this research by geographical criteria. The sample in this study is intentional and three countries in region are chosen to represent whole region: Bosnia and Herzegovina, Serbia and Macedonia. Three chosen EU countries are UK, The Netherlands and Poland.

In first phase of the research process in this study was choosing countries which are geographical representative to EU and region of Republic of Kosovo. In the analysis we have western, eastern and northern European countries (United Kingdom, Poland and The

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<sup>2</sup> The International Bank for Reconstruction and Development, (2011), World Bank Group Education Strategy 2020.

Netherlands). Regional countries in the analysis are chosen because of the similarity of labour market condition of Republic of Kosovo (Bosnia and Herzegovina, Macedonia and Serbia).

In the second phase these countries are analysed by defined criteria of being “best practices” and all the case studies (examples of public-private cooperation) which meets the criteria are gathered. In the last phase are presented the case studies which are identified as being “best practices” of each country in the research.

## 2. Defining the Concepts

For the purposes of this paper, the following definitions are used:

### Employment Services

An employment services (or employment agencies) are organizations which matches employers to employees.<sup>3</sup> In all developed countries there is a publicly funded employment agency and multiple private businesses which also act as employment agencies. There are two types of employment services defined below.

#### Public Employment Services

Public Employment Services (PES) includes the authorities that connect jobseekers with employers.<sup>4</sup>

Although structured differently in each country, all PES help match supply and demand on the labour market through information, placement and active support services at local, national and European level.

#### Private Employment Services

Private Employment Services (agency)<sup>5</sup> is any enterprise or person, independent of the public authorities, which provides one or more of the following labour market functions: (a) services for matching offers of and applications for employment; (b) services for employing workers with a view to making them available to a third party (“user enterprise”); and/or (c) other services relating to job-seeking, such as the provision of information, that do not aim to match specific employment offers and applications. Agencies cannot charge workers for finding work.

Private agencies contribute to more effective active labour market policies by:<sup>6</sup>

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<sup>3</sup> International Labour Organization, Connecting Employment Service Centres with Stakeholders (Employers’ and Workers’ Organizations): “Employment Services for Palestinian Refugees in South Lebanon”;

<sup>4</sup> <http://ec.europa.eu/social/main.jsp?catId=105&langId=en>; Available at: December 2014;

<sup>5</sup> International Labour Organization, (2009). Private Employment Agencies, temporary agency workers and their contribution to the labour market, Issues paper for discussion at the Workshop to promote ratification of the Private Employment Agencies Convention, 1997 (No. 181);

<sup>6</sup> [http://www.eurociett.eu/fileadmin/templates/eurociett/docs/position\\_papers/Leaflet\\_ALMP\\_final\\_version.pdf](http://www.eurociett.eu/fileadmin/templates/eurociett/docs/position_papers/Leaflet_ALMP_final_version.pdf); Available at: December 2014;

- Putting more people to work (matching supply of labour to demand, as a result they allow higher participation rates in employment and increase the diversity of the labour market);
- Facilitating transitions (from unemployment to work, from education to work, from household to work and between different labour contracts);
- Supporting transformations (enhance the employability of workers, particularly by facilitating access to training and by offering the opportunity to acquire professional experience in various, different working environments);
- Cooperating with public employment services (in framework of active labour market policies, sharing candidate and job vacancies database, assessing jobseekers' skills, facilitating access to training for jobseekers, and providing outplacement services to help unemployed re-entering the labour market).

For the purpose of this research it was defined that Private Employment Services include following: Job Portals, Employment Agencies, Head Hunters, HR Consulting Companies and Temporary Employment Agencies (TWA).

## Relationship between Public and Private Employment Services

Article 13 of ILO Convention No. 181 (1997; 8)<sup>7</sup> promotes cooperation between private and public employment services. Specifically: "A Member shall in accordance with national law and practices after consulting the most representative organizations of employers and workers, formulate, establish and periodically review conditions to promote cooperation between the public employment services and private employment agencies". In many aspects, their activities can also be complementary. However, in principle, the public authorities retain the final authority as far as formulating labour market policy and in the utilization and control of public funds for the implementation of this policy.

Paragraph 1 of Recommendation No. 188 (1997)<sup>8</sup> proposes the following measures of public-private employment services cooperation:

- pooling of information and use of common terminology so as to improve transparency of labour market functioning;
- exchanging vacancy notices;
- launching joint projects, for example in training;
- concluding agreements between the public employment service and private employment agencies regarding the execution of certain activities, such as projects for the integration of the long-term unemployed;
- training of staff; and
- consulting regularly with a view in order to improve professional practices.

Joint activities can be of a non-commercial or commercial nature. In the first case, cooperation would not involve expenditure of public funds for services provided.

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<sup>7</sup> International Confederation of Private Employment Agencies, (CIETT), (2009). The agency industry around the world Brussels, p. 28.;

<sup>8</sup> International Labour Organization, (1997). Conventions: C096 Fee-Charging Employment Agencies Convention (Revised), 1949; Supplement: C181 Complementary to the Private Employment Agencies Convention.

## **Good Practices of Public/Private Cooperation**

In order for something to be considered a "best practice" it must be arrived at through a comparative process between methodologies, it must take into account all relevant approaches, since neglecting to do so would lead to inappropriate usage of the term "best".

Effective cooperation is mostly realised through projects and programs of public and private employment services, regardless of the target they serve, have some or all of the following characteristics:

### **1. Clear Mission and Cooperation Goals**

In order for a program to be effective, it must have a defined clear purpose or mission. This includes a clear definition of which target the program/cooperation serves, the outcomes it wants to achieve and the strategies it will use to attain these outcomes.

### **2. Focus on Employability**

Employment services cooperation should have a clear focus on helping develop employability.

### **3. Provide Comprehensive Services**

Effective cooperation programs are increasingly taking a more holistic approach to workforce development. Public-private employment services cooperation should include any of defined measures of cooperation in this paper. The most effective programs offer some combination of the mentioned activities, depending on the needs of their target population.

### **4. Provide Financial Incentives**

Successful programs of public-private employment services cooperation as a result usually offer financial incentives for target. Effective programs emphasize that your success or failure will have financial consequences. Financial incentives may differ.

### **5. Measurement of the results**

Programs (cooperation between Public and Private Employment Services) that measure outcomes typically focus on the number of job placements and use this evidence to attest to the effectiveness of services.

### **6. Embrace Continuous Improvement**

The improvement process is a repetitive cycle that begins by collecting relevant data, analysing the results and then systematically planning and implementing changes. Effective programs establish systems that allow them to make fact-based decisions in planning, managing and improving.

## **Limitations of the Criteria Base**

Although the "best" or "effective" practices were discussed by many experts, there is still little evidence on the short and long-term outcomes associated with public/private employment services cooperation. The majority of programs focus on documenting the number of people employed upon completion of the program/project/cooperation. However, as previously noted,

employment programs do more than just place people in jobs. Yet, there is still little evidence to demonstrate what additional outcomes or effects employment programs have on employment.

It is challenging to identify “best practices” of public/private cooperation because practices vary depending on the target population and program (cooperation) goals. This key point is critical to remember while reviewing the presented information.

### 3. EU Strategies

One of the five headline targets set by European strategy 2020, agreed for the whole European Union, is: „Increase in employment rate of the population aged 20-64 from the current 69% to at least 75% by 2020, through the greater involvement of women, older workers and the better integration of migrants in the workforce”<sup>9</sup>.

In order to reach its employment target, EU Commission launched initiative named "An agenda for new skills and jobs". Agenda stresses importance of labour market institutions - employment services, in particular PES and their role as a lifelong service providers, delivering services in skills assessment, profiling, training delivery, individual career guidance and client counselling (workers and employers), matching people to job profiles, and offering services to employers, as well as catering for the challenges of those furthest away from the labour market. PES should also, according to the Agenda, promote partnerships between and among services (public, private and third sector employment services), education and training providers, NGOs and welfare institutions.

Agenda continues to promote flexicurity - as a strategy for enhancing *flexibility and security* in the labour market. Flexicurity attempts to reconcile employer's need for a flexible workforce with worker's need for security. As one of the accompanying and preparatory measures for the implementation and governance of flexicurity, Commission will: “establish, by the end of 2011, a partnership between employment services from the public, private and third sectors to encourage an EU-level strategic dialogue to make transitions pay. The partnership will also provide small-scale funding for best-practice projects; a new web tool will disseminate the evaluated and tested good practices”<sup>10</sup>.

Furthermore, initiative on Partnership between Employment Services – named PARES was launched in 2011. “PARES will encourage EU-level dialogue to:

- improve cooperation between the different employment services (public, private and non-profit) in EU member countries and
- define fields where they can deliver complementary services.”<sup>11</sup>

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<sup>9</sup> European Commission Europe 2020, (2010). A European strategy for smart, sustainable and inclusive growth, European Commission, Brussels, p. 8;

<sup>10</sup> European Commission, (2010). Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and The Committee of the Regions, An Agenda for new skills and jobs: A European contribution towards full employment, Brussels, p. 8;

<sup>11</sup> <http://ec.europa.eu/social/main.jsp?catId=991>; Available at: December, 2014;



As the reasons for this partnership, PARES stresses: “To make publicly-funded employment services more efficient, whether delivered by public or private employment agencies, and to improve the quality of services provided – through well-structured partnerships between private and public providers.”<sup>12</sup> PARES does not aim to further increase the competitive pressure among employment services.<sup>13</sup> In fact, it should focus on how the cooperation can be further improved and how the complementarity of their service offers can be further developed.

In order to make platform for discussions and develop consensus based recommendations targeted at policy makers and/or practitioners, PARES established SDs, Strategic dialogues forums. The topic of PARES Strategic Dialogues (SDs) forum held in May 2014 was ‘Delivering a Coordinated Service Offer’<sup>14</sup>. The objective was to consider how best different actors can work together to successfully and consistently deliver a coordinated service offer and how to address potential operational issues that might occur. The SD discussed the foundations underpinning partnerships, in particular how partnerships between employment services can be successfully operationalized; how partnership working is reflected in day-to-day service delivery; how information is transferred between the partners; and, how to create a coherent and comprehensive user experience for jobseekers and employers.<sup>15</sup>

The recommendations from the SD are very important and useful for the future cooperation of PPES in whole Europe. For the purpose of understanding them and applied them by Kosovo employment services providers they are included in this document.

## **Recommendation of PARES Strategic Dialogues**

### **Formalising agreements**

Employment services entering into co-operation arrangements at the national/federal level and local level should formalise these through a memorandum of understanding (MoU) or other type of formal agreement (contract, joint working agreements). Operational service delivery will be more effective if the agreement sets out clear common objectives, the responsibilities of each partner, and the expected and measureable outcomes from the joint activity and services to be delivered. The form of the agreement should be dependent on local circumstances, the maturity of partnering relationships and the degree of contractual formality required. Changes to national law can facilitate partnership-based delivery by strengthening the status of partnership agreements. If the partnership is based on a contractual relationship, it is important to ensure that any financial incentives support the objectives of the partnership.

‘Co-investment partnership’ which involves the pooling of financial resources from amongst the partners to deliver a particular service, pilot agreements around joint management contracts for different client groups – providing the scope for testing-out operational processes around local

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<sup>12</sup> <http://ec.europa.eu/social/main.jsp?catId=991>; Available at: December, 2014;

<sup>13</sup> European Commission, (2014). Employment, Social Affairs and Inclusion, Partnerships Between Employment Services PARES. Brussels

<sup>14</sup> European Commission, (2014). Partnership between Employment Services (PARES) Strategic Dialogue 2014, Delivering a Coordinated Service Offer, Recommendations to Employment Services, Brussels

<sup>15</sup> Ibid.; p. 1.

co-delivery.<sup>16</sup> It should be aware of the risk that service providers could prioritise support for clients with the greatest chance of a successful outcome rather than those with deeper and more intractable problems. Clear minimum service standards and varying performance payments for different categories of clients can ensure that service providers focus on the intended target groups.

Agreements can focus on ‘what’ is to be achieved and not necessarily the ‘how’ which allows more space for innovation and creativity in design and delivery of services for client.

## **Management arrangements**

A lead organisation should provide vision and steer the partnership, supported in its work by a cross representative steering group. Each member of the partnership should have a manager with appropriate authority to contribute to the development and decision-making of co-ordinated services within the partnership and within their own organisation and similarly, who will be accountable for the contribution and performance of their organisation.

Success of the partnership is linked directly to the engagement of staff. Buy-in can be achieved through transparent communication to frontline staff in all partner agencies about the objectives and how they will be achieved. Allowing staff to communicate their expectations and including them in the development of the service offer creates increased commitment.

## **Oversight**

Key performance indicators should be collectively agreed upon and a monitoring and evaluation system should be part of the ‘institutional architecture’ of the partnership. Evaluation should assess the added value of the partnership, partners and co-delivery. Escalation processes in response to poor performance or contractual financial issues should be agreed in advance. Partnership should place the process for continuous improvement and progression.<sup>17</sup>

## **Delivering a Coordinated Service Offer**

Deliver a quality, co-ordinated service offer entails placing the jobseeker and employer at the centre of service delivery. There are a number of critical success factors for delivering a co-ordinated service.

Effective data pooling is critical. The sharing of labour market intelligence (including vacancies) and client information (personalised action plans) amongst all partners (employment services [public, private and non-profit], municipalities, the third sector, training providers, and other service providers) via common IT platforms would be ideal for joint planning and effective delivery of a coordinated service offer.<sup>18</sup> Common processes for obtaining client agreement to

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<sup>16</sup> European Commission, (2014). Employment, Social Affairs and Inclusion, Partnerships Between Employment Services PARES. Brussels

<sup>17</sup> European Commission, (2014). Partnership between Employment Services (PARES) Strategic Dialogue 2014, Delivering a Coordinated Service Offer, Recommendations to Employment Services, Brussels

<sup>18</sup> Ibid.

data sharing and quality assurance standards for partners' data management and protection systems need to be established.

Develop a common brand in order to maximise communication of the partners' service offer to jobseekers and employers, in order to create a recognisable identity for customers and minimise the potential confusion linked to multiple providers. Use the concept of the customer journey as an operational planning tool to identify what services are needed for the client and when; to be delivered by whom (directly and/or in partnership); and to identify the key transition points between partners ("hand-overs") for the customer and the necessary procedures to smooth the process. In the initial stage of customer journey, early preventative measures can be undertaken by the Partnership. Diagnostic assessments and profiling should be carried out during the first weeks of a client's registration.<sup>19</sup> Develop operational agreements around the key transition points to clarify and manage: service planning, assessment tools; access to current data on provision; referral processes; data sharing protocols; quality standards and metrics; monitoring and review arrangements.

### **A Demand-led Coordinated Service Offer**

Partnerships between employment services should provide a demand-led service offer aimed at meeting the needs of local employers. At the operational level, this entails investing in the pooling and continuous updating of information on employer demand and local labour market needs and opportunities.

Customer Relationship Management (CRM protocol) can facilitate and encourage employer engagement and reduce duplicate contacts from multiple agencies. In some localities, employer demand remains depressed as a consequence of the economic crisis. Shared intelligence could identify which employers would consider hiring staff in advance of real demand given the right assistance and incentives – for example wage subsidies, pre-employment induction programmes, traineeships or on-the-job training. Partners could collaborate on developing a more tailored offer in order to un-lock additional vacancy opportunities within the local labour market. Sustainability of employment is crucial for all labour market actors. Employment services should work in partnership with employers in order to enhance the sustainability of employment and to minimise the re-cycling of people into/out of jobs.

SMEs are a crucial driver of job growth in post-recession Europe but often lack dedicated training and HR functions. Partnerships with a wide range of services can provide basic HR support, e.g. in recruitment and absence management, to help SMEs reduce business costs, increase sustainability and improve productivity.<sup>20</sup>

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<sup>19</sup> European Commission, (2014). Partnership between Employment Services (PARES) Strategic Dialogue 2014, Delivering a Coordinated Service Offer, Recommendations to Employment Services, Brussels

<sup>20</sup> Ibid.

## 4. Overview of Cooperation between Public and Private Employment Services in EU

Both, public and private employment agencies dated back to the beginning of the 20th century. But, for most of the twentieth century, private employment agencies were considered quasi legal by international law. However in most countries they were legal but tightly regulated.

In 1997, ILO adopts the Private Employment Agencies Convention with the purpose of allowing the operation of private employment agencies as well as the protection of the workers using their services, within the framework of its provisions. It formalised the end of the PES's role as the sole employment service provider.

Australia and The Netherlands were the first two countries to introduce market competition for employment services, but they were soon followed by others that sought to improve the performance of public job-brokerage organisations or wanted to overcome the limited capacity of public providers and extend the supply of employment services. A similar process can be observed in all Member States, though it is more advanced in Northern and Central Europe. As a result, transfers to external providers now account for about a third of overall EU expenditure on ALMPs, though there is still considerable variation between countries like the UK and the Netherlands, where more than two-thirds of expenditure goes to external providers, and others where the share is still well below one third.<sup>21</sup>

The widespread liberalisation of employment services is the result of a large number of factors. On the one hand, the new public management (NPM) approach to public sector reform that started in the 1980s, and the changes in the labour market on the other hand, both on demand and supply side. Currently, the majority of EU countries have 'quasi-market' placement regimes, wherein different actors compete with each other for public resources within limits set by the public sector. Competitive and cooperative approaches coexist.

For the purpose of this study we investigated cooperative arrangements that exist in EU and regional countries and describe best practises founded in these countries. In the next section we will give brief overview of the reasons for partnerships, actors, services and different forms of partnership that now exist among employment services in the EU and regional countries.

### Reasons for partnership

There are two main reasons for establishing partnership:

*a) Upgrading the capacity of employment services to perform their current tasks, which includes two aspects:*

- The quantity of services provided (for instance, assisting all the new unemployed people during the crisis, or producing a more intensive effort for long term unemployed people);
- The type and the quality of services provided (for instance, implementing new services for disabled people or, in general, providing specialised services for specific target groups).

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<sup>21</sup> Naldini et al., (2011). SMALL-SCALE STUDY. Partnerships among Employment Services, MobilityLab, European Job Mobility Laboratory, Italy

*b.) Tackling multi-dimensional problems (hard-to-place clients, industrial restructuring, young people entering the labour market, etc.), which normally requires:*

- Additionally: extra skills and expertise, which are more convenient to acquire on the market or that are available only in specific organisations (such as not-for-profit organisations dealing with particular target populations);
- Complementarity: so as to avoid overlaps and duplication of effort (for instance, when different public bodies have both competences and obligations to support specific groups such as lone parents, ex-addicts, etc.).<sup>22</sup>

## Actors

PES – public employment services

PRES - For-profit organizations: private employment agencies, job portals, head hunting agencies, HR Consulting companies, training providers.

Other Interest groups may also be involved in the delivery of ALMPs.

## Models of Partnership

There are two models of partnership between PES and other service providers:

- In some countries (for instance, Germany, Spain, and Italy) PES continue to act as the main service provider, but outsource specific services and activities, such as training, orientation, vocational rehabilitation and placement into community work, often subject to strict licensing mechanisms;
- In other countries (for instance, Austria, Denmark, The Netherlands and the UK) PES mainly act as a regulator, outsourcing all but the most basic employment services to other providers. In The Netherlands private employment agencies are allowed to compete freely with each other and with public services. In the UK, private providers selected through tendering procedures are only bound to deliver specific outcomes (job placements) and are left free to offer whatever services they believe to be most effective to individuals without government prescription (so called 'black box' approach).

## Services

Labour market policies are categorized as follows:

- LMP services cover all services and activities of the public employment service (PES) together with any other publicly funded services for jobseekers.
- LMP measures cover activation measures for the unemployed and other target groups including the categories of training, job rotation and job sharing, employment incentives, supported employment and rehabilitation, direct job creation, and start-up incentives.
- LMP supports cover financial assistance that aims to compensate individuals for loss of wage or salary (out-of-work income maintenance and support, i.e. mostly unemployment benefits) or which facilitates early retirement.<sup>23</sup>

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<sup>22</sup> Naldini et al., (2011). SMALL-SCALE STUDY. Partnerships among Employment Services, MobilityLab, European Job Mobility Laboratory, Italy

In most Member States the provision of LMP services such as information, guidance, orientation and counselling, skills profiling, matching and placement is now open to a range of both public and private actors ranging from universities and chambers of commerce, to PRES and TWAs, to the voluntary sector. Private agencies are generally required to acquire a licence to operate. The risk of ‘creaming effects’ – i.e. private agencies concentrating on higher-skilled, easy to place clients, leaving the more vulnerable for public services to deal with – is well documented. Third sector employment services, by contrast, tend to focus on vulnerable groups and mediate with employers in order to facilitate access to employment or return to work. Their LMP services are often part of broader social inclusion interventions.

All Member States have recourse to external parties for the delivery of training services. A few European PES organise training in-house but even in these countries, training for specific target groups (the disabled, the very low-skilled, early school-leavers) is generally outsourced to external providers. These are typically private firms, usually subject to public checks in the form of licensing systems. Voluntary organisations are also active in this field, often in partnership with for profit training agencies. In addition to formal training, some third sector organisations provide different forms of ‘life-skills training’ for beneficiaries who need to develop skills to live independently and adapt to the requirements of a regular job.

Associations working with the poor train people with long experience of homelessness or rough sleeping to settle back into their community, develop communication skills, build self-esteem and the confidence to search for a job and support themselves. Finally public bodies, such as municipalities and social insurance agencies, are involved – in countries like Sweden, for instance – in planning decisions regarding services for specific groups of common concern like new immigrants, the very long-term unemployed and other vulnerable groups.

External providers are also active in the provision of other LMP measures – job experience, work trials, placement in community work, etc. In countries like Denmark and the Netherlands, where responsibility for ALMPs lies with municipalities, it is the latter that take a leading role and outsource services to private providers, while PES are left with the task of sharing information on potential beneficiaries. In other countries, such as Austria, Spain, Ireland, Sweden and Hungary, PES keep control over specific programmes, such as voucher schemes and the subsidisation of salary costs.

Finally, different kinds of third sector organisations promote internship opportunities for their clients, put in place programmes to foster the transition from sheltered employment into the open labour market, support entrepreneurship and business start-ups.

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<sup>23</sup> [http://epp.eurostat.ec.europa.eu/portal/page/portal/labour\\_market/labour\\_market\\_policy](http://epp.eurostat.ec.europa.eu/portal/page/portal/labour_market/labour_market_policy); Available at: December 2014

Table 1 Main types of partnership between PES and PRES and characteristic

<b>Aim</b>	<b>Service</b>	<b>Involved actors</b>	<b>Contractual arrangements</b>
<b>Upgrading the capacity of employment services</b>	Enhancing basic LMP services supply	PES and For-profit private providers	Market-based service provider contracts
	Providing and strengthening training services	PES and Education & training bodies Private training providers	Market-based service provider contracts Client contracts
	Providing LMP services and other LMP measures for disadvantaged groups	PES and For-profit private providers	Market-based service provider contracts Client contracts
	Labour Market Information and Intelligence (skills needs analysis & vacancy exchange)	PES and For-profit private providers • Enterprises • Education & training bodies	Informal arrangements or legal rule
<b>Tackling multidimensional tasks</b>	LMP measures and high number of different services	PES and For-profit private providers	Market-based service provider contracts (prime contractor)

*Market-based service provider contracts* are widely used in Europe to contract out service delivery to private commercial or non-commercial actors. When tendering is used, the role of public players shifts from one of direct provider to that of 'gateway'. The public 'principals' decide to purchase employment services from private external actors within a 'quasi-market' arrangement, whereby clients (the beneficiaries) are not the purchasers (PES in this case) and demand can only move around between providers from one tender to another.

*Client contracts* are contracts between (public or private) service providers and individual clients, usually laying down mutual rights and duties within reintegration agreements. In a sub-type of this contract form, eligible clients can receive vouchers, allowing them to choose among different providers of training or placement services. The outcome is, again, a quasi-market system in which services are purchased with public resources from whomever the individual decides, provided that they meet a number of conditions set by the public body in charge of the scheme, usually through licensing mechanisms.

### Success in Partnership and Obstacles

Private partners are particularly successful at selecting project participants (the young, women, the high-skilled), motivating them and supporting their choices for apprenticeship and training

(cases of Poland, Germany and the UK), particularly when service quality and not price was taken as prime selection criterion for the award of public contracts.

The sharing of labour market information between PES and private providers is said to have a positive effect on the effectiveness of placement. For example: about 35% of all vacancies notified for selection services by the Dutch PES come from TWAs.

Conversely, administrative difficulties were frequently mentioned as a significant barrier to partnerships among employment services achieving good results.

## Regional Background

Regional countries, which include countries that we analysed (Bosnia & Herzegovina, Macedonia and Serbia) are detailed analysed. The results showed that none of these three countries have many concrete examples of good practice cooperation between public and private employment institutions according to the criteria that we have identified and defined concept of "good practice". More specifically, B&H is the only country among these three that has a good practice example of the public-private employment services cooperation and that meets the criteria of good practice.

The analysis showed that in all three countries coexist public and private providers of employment services and they work together in various forms of partnership, however, it is not accompanied by formal arrangements. Cooperation between the two institutions is also versatile in the sense that they are working with NGOs and private companies as well as social institutions. This lack of good practices of public-private employment services cooperation can be explained by various factors: political, financial issues and others.

In Serbia, the cooperation between PPES is limited to exchange of information on vacancies and job fairs. The National Employment Service has signed cooperation agreements with 39 employment agencies and advertises their vacancies in the Branch offices if required. Private agencies have also been involved in Job Fairs organised by the NES. There are 57 private employment agencies licensed by, and registered in Serbia. <sup>24</sup>

Through the interview with private employment agencies it was found that there are no examples of cooperation that could fit best practice criteria and confirmed that cooperation was limited to exchange information on vacancies, informing jobseekers about certain PES activities and job fairs.

In Macedonia in 2009, there were 45 private agencies in the register. Experience shows that they were mainly engaged in head-hunting services, and focused on easy-to-place jobseekers, so-called 'clientele creaming'. In 2006, a specific Law on Agencies for Temporary Employment was adopted in the Former Yugoslav Republic of Macedonia, with an overall objective to reduce the informal labour market (i.e. the widespread use of civil law 'freelance' contracts) and increase flexibility for employers in quick adjustment to the demand. Temporary work agencies should get license and be registered with the MLSP. In 2009, there were 25 registered temporary work agencies, which in 2008 employed about 11,000 workers (less than 2% of total LFS employment).

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<sup>24</sup> Cavanagh, (2010). A Review of the public employment services in Serbia, p. 16, Serbia



In general, there was no readily available data on private and temporary work agencies, and the former are rather neglected even in the CARDS employment projects, and not mentioned in the strategic employment documents such as NAPE.<sup>25</sup>

The seminar held in Skopje in 2010, by ILO, named “Improving the cooperation between private and public employment agencies in the Former Yugoslav Republic of Macedonia” also provided an opportunity to discuss current problems, like the lack of cooperation between public and private employment agencies in the country. Private employment agencies and employers’ organization concluded that this seminar and the ratification of Convention No. 181 by the Former Yugoslav Republic of Macedonia might help improve the cooperation among agencies. However, through the secondary research and interview conducted we didn’t find such examples.

## **Findings of the case studies**

This section summarises the results of six case studies which are detailed below. The studies have been selected to ensure a broad coverage of the main public-private partnership according to the identified dimensions: actors, services, levels of government, formal arrangements. In this section is also included case study from Poland about cooperation between PES and Private sector companies, which is presented because of the absence of examples of the good Public-Private Employment Services Cooperation practices.

### **Case study: The Netherlands <sup>26</sup>**

#### **Background and Context of the Partnership**

The Netherlands Central Organization for Work and Income (CWI) is a news public agency which has replaced the former public employment service. The budget for its operations is provided by the Ministry of Social Affairs and Employment. In 2002 the CWI employed some 4,400 staff in 130 local Centres for Work and Income. The CWI does not administer any active labour market measures, however.

With regard to placement, the CWI continues to work with private employment services, especially temporary work agencies, which for decades have been substantial actors in the Dutch labour market.<sup>27</sup> Employees hired out by temporary work agencies account for four per cent of total employment. The temporary work agencies are seen as complementary to the CWI, which refers work-ready job seekers simultaneously to three to five temporary work agencies. Job seekers can work temporarily through these agencies (not applying for unemployment benefit in this period) while searching longer-term positions. In addition, the Internet job bank

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<sup>25</sup> Mojsoska-Blazevski N. et al., (2009). Labour Market in the former Yugoslav Republic of Macedonia, A study for the European Commission, Employment, Social Affairs and Equal Opportunities DG

<sup>26</sup> <http://web.undp.org/evaluation/evaluations/documents/GCF-II-Evaluation.pdf>; Available at: December 2014,

<sup>27</sup> Ibid.

of CWIs contains links to the vacancy database of temporary work agencies. Temporary work agencies also have access to the public CV-database.<sup>28</sup>

On the other hand, responsibility for placing unemployment insurance beneficiaries and social assistance clients has been given to the municipalities and to the employee insurance agency. The budgets for reintegration services have been allocated to these authorities in full. They organize tenders for reintegration services in which private companies may bid. During 2012, more than 500 Netherlands jobseekers secured an employment position as a result of this PPP. Its success may encourage more of these mutually-beneficial projects to be undertaken across the nation.<sup>29</sup>

The establishment of Regional Mobility Centres by the Dutch government is an interesting example of an emergency measure which achieved results. A network of 33 Regional Mobility Centres covering the entire country was set up to address the dramatic increase in unemployment following the financial crisis in 2008.

## Services

A key feature of the programme was to find new jobs for people in danger of dismissal rather than wait until they had lost their jobs. This entailed approaching organisations who had announced they would be laying off staff and providing tailored services to help their employees.

These services include the provision of information about the labour market and companies looking to recruit, matching with job vacancies, organising events such as job fairs, and opportunities for training, among others.

Mobility Centres also offered advice on skills and training to companies who were experiencing temporary shortfalls in their orders but wanted to retain skilled and experienced staff and improve their employability. Employers thus affected were able to offer their staff part time unemployment or reduced working hours but provide training at the same time. Unemployment funds were used to finance these arrangements. Because Mobility Centres had a regional focus, they were able to respond to local needs. They also assisted employers who were looking for staff to fill their vacancies.

Companies in trouble over the last few years because of the economic crisis, and for that reason forced to lay off employees, were helped by the mobility centres in cooperation with other public and private parties in finding new jobs for employees threatened with unemployment.

The mobility centres assist in finding new jobs. Activities are deployed in addition to activities of the companies themselves. They supply information about the regional labour market and companies looking to recruit, provide matching with vacant jobs, organise events like job markets, speed dates, various projects for unemployed employees, opportunities for additional training, etc.

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<sup>28</sup> <http://www.randstad.com/press/news/randstad-news/ilo-attends-event-celebrating-netherlands-public-private-sector-partnerships/>; Available at: December 2014;

<sup>29</sup> Ibid.

Specific services:

- Information about the labour market
- Information about job vacancies
- Matching with job vacancies
- Job markets
- Speed dates
- Projects
- Training, e.g. training bonuses called schoolings bonus for job-to-job transitions.

These activities are organised in the form of projects that are tailored to local needs. Eurofound (2010) distinguishes between three main types of:

- Projects aimed at supporting redundancies by way of guiding the employees threatened by it in a work-to-work trajectory
- Projects aimed at companies or sectors having trouble finding personnel
- Projects helping companies suffering from a temporary fall in production as a result of the crisis and their consequent inability to retain their personnel.

## **Reasons for partnership**

Mobility centres were set up in the period of the financial and economic crisis (end of 2008). The objective of the 33 mobility centres is to prevent unemployment in periods of economic crisis. At the time, an unemployment rate of 7.5% was expected.

The economic crisis had a severe impact on the Dutch labour market in 2009. This was due to the open nature of the Dutch economy, which made it susceptible to foreign shocks. According to the OECD Economic Outlook, GDP declined by 3.7% in 2009. The unemployment rate, although still at a low level by international standards, increased from 3.0% in 2008 to 4.7% in 2010. In 2008, the number of unemployed was forecast to increase to 875.000, underlining the need for rapid action. The labour market participation of workers aged 50 and over had increased strongly over the decade from 2000 to 2010. This was in part due to a reduction in the inflows of incapability benefit claimants.

## **Legal Aspect of Cooperation**

The policy addresses several employment guidelines, in particular increasing labour market participation of women and men and reducing structural unemployment. In particular, the policy is closely related to the Employment Guideline No. 21 of 2008 which requires member states to promote flexibility combined with employment security through, among others, “better anticipation and positive management of change, including economic restructuring”. It is furthermore related to Guideline No. 20, which calls on member states to improve matching of labour market needs through, among other means, “the modernisation and strengthening of labour market institutions, notably employment services, also with a view to ensuring greater transparency of employment and training opportunities at national and European level”.

The Commission Communication “An agenda for new skills and jobs: a European contribution towards full employment” (COM 2010 682) also calls for a comprehensive role for the public employment service. In particular, it proposes that “employment services should also promote partnerships between and among services (public, private and third sector employment services), education and training providers, NGOs and welfare institutions”. The main policy goals are to facilitate work-to-work transitions and prevent entry into unemployment. Many European countries have put measures in place to address these policy goals. Yet the Dutch example, although its focus on the cooperation of regional actors and work-to-work transitions is not entirely new, is one of the programmes which become operational at an early stage when the worker is still employed.

As the evaluation of the Regional Mobility Centres has not yet been completed, it is currently difficult to judge effectiveness and efficiency. A public budget was issued for these activities. Since 2011, these activities have been a part of the regularly financed employment services.

### **The objectives of the partnership**

The main objective was to address the effects of the economic crisis on the Dutch labour market and to prevent unemployment. The specific target groups are individuals under threat of redundancy.

### **Measurement system**

Two related policies for tackling the effects of the financial and economic crisis have been used to complement the effect of regional mobility centres:

- Part-time unemployment and working time reduction.
- Part-time unemployment
  - Temporarily issuing unemployment income for (at most) 50% of working time
  - Advice on training and improving the skills of employees
  - 2009, 2010, first half of 2011
  - 8,000 companies
  - 80,000 employees.

From the second half of 2009 until the present time the instrument of part time unemployment has been available for companies with a temporary shortfall in their orders. Its aim is help companies retain and improve the employability of their skilled and experienced employees. The mobility centres offered advice to 8,000 companies on training and improving the skills of 80,000 employees under this arrangement.

In the first half of 2009, 896 companies were given advice on vocational training and improving the skills of 49,000 employees for whom a licence was issued for a reduction of weekly working hours. Unemployment funds were used to finance reduced working hours. These companies were confronted by a sudden and sharp drop in their order books. A fall in orders was the most important requirement as far as participating in this arrangement was concerned. The innovative feature consists in linking two elements: regional networking and the preventive approach promoting job-to-job transitions. Both approaches have been used before, e.g. sectorial

training funds had been used to facilitate job-to-job transitions. Joint public-private partnerships were also used but were not widespread in the area of local employment policies.

## **Actors**

The programme operated as a public-private partnership with the public employment service UWV acting as the government's contractor. Its partners included municipal authorities, regions and sectors, educational bodies, temporary and secondment agencies, employment agencies, professional business knowledge centres, industry associations and outplacement service providers.

## **Outcomes and impact**

There were no specific quantitative targets regarding the transitions of older workers.

The budget was 13 million € annually in 2009 and 2010 (financed solely from the UWV budget). The budget covers on average 2-3 staff members of the regional mobility centres within the public employment service (UWV). The budget is from UWV (which is financed by the Ministry of Social Affairs and Employment). Additional financial support, mainly for specific projects and support measures, is obtained from employers, regional authorities, training funds, funds within the Part-time Unemployment Act, as well as the ESF. The overall amount of funding, including these diverse sources, is not known. In 2009 and 2010 about 24,000 employees were helped in finding a new job before actually becoming unemployed. An additional 193,000 employees had found a job before being unemployed for more than three months.

However, only some of these transitions can be attributed to the programme. The net effects of the programme are currently being investigated through an independent evaluation.

The approach includes all groups of workers. About 25% of the workers in employment are over 45 years old (in 2010: 25,838 out of 109,258). Estimates for net impacts or impacts at the macroeconomic level are unavailable. However, an external evaluation of the programme is being made.

The degree of satisfaction among employers and employees regarding the services of the regional mobility centres was high.

The programme was introduced in autumn 2008. It was a special programme in 2009-10. Since 2011, these activities have been mainstreamed within the regularly financed employment services.

The method of tackling forecast unemployment as developed in the Mobility Centres has become common practice in regional/local PES.

## Case study: Poland <sup>30</sup>

Poland has 16 regional and 353 local labour (PES) offices with a total of 16,000 staff and a budget of US\$300 million.

Private employment agencies have been authorized in Poland since 2002 under certain regulatory conditions. These authorized agencies are obliged to register job-seekers and to submit information on their activities to the Ministry twice yearly. Such information should include:

- placement activities (number of job offers; number of persons who started a job; number of such persons by occupation; countries to which Polish nationals are posted); and
- Revenues received and costs incurred by placement activities.

The mandated information provisions have catalysed other cooperation between private placement agencies and regional labour offices. Such cooperation has been mentioned in opinions issued by “starostas” (supervisors of local labour offices). Cooperation covers: exchange of databases on job-seekers; promotion of a system of budget subsidies for persons starting up their own business; joint organization of job fairs and job exchange; exchange of job offers which are difficult to fill, and joint implementation of special programmes addressed to unemployed persons.<sup>31</sup>

### Background and Context of the Partnership

Partnerships of employment services in Poland are strongly connected to the political and economic transition of the country, and especially to the administration reform of 1998 which made PES subordinate to local governments and regional authorities, and no longer to the Ministry of Labour. This reform and further legislation in 2004 were intended to promote subsidiarity and improve the effectiveness of ALMPs at the local level.<sup>32</sup>

Partnerships between employment services providers in Poland vary substantially across regions and local PES. This mainly depends on the capacity and structure of third sector organisations in the region. Local PES often complains that NGOs are not innovative and creative enough and they have too high costs for individual services. Nevertheless, they appreciate that NGOs may be the most effective partners to dealing with socially excluded, vulnerable groups (Tyrowicz, 2006).<sup>33</sup>

Many local and regional PES in Poland acts as self-sufficient institutions without any need for any kind of partnerships with other providers (MPiPS, 2008). Most often local PES in Poland cooperates with neighbouring local PES (72%). They either exchange job offers or submit common applications for projects funded by the ESF. They also tend to co-operate with other local government institutions such as Local Centres for Family Support (63%), the police (19%), road management bodies (17%) and health institutions (6%) (MPiPS, 2008). However, if local

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<sup>30</sup> Barbier et al., (2003). Public-Private Partnerships in Employment Services, International Labour Office, Geneva

<sup>31</sup> Ibid.

<sup>32</sup> Naldini et al., (2011). SMALL-SCALE STUDY. Partnerships among Employment Services, MobilityLab, European Job Mobility Laboratory, Italy

<sup>33</sup> Ibid.

and regional PES in Poland decide to enter into partnerships with 'open labour market institutions', in nearly 80% of the cases these relate to training (Tyrowicz, 2006). The two projects reviewed below are presented as an illustration of this kind of partnership, of its functioning, its outcomes and its strengths and weaknesses.

### **Simulation Company as a mechanism of partnership with training institutions**

The simulation company is a specific test-case and mechanism of partnership with training companies in Poland. It is perceived by local PES in Poland as rather innovative, although it was first applied in the country in 1993. A simulation company is a 'virtual on-site form of vocational training' resembling 'the natural environment and economic reality' of a commercial company. It aims to imitate the environment of a 'real' company, where all formal procedures (finance, logistics, transport, trade, human resources management, administrative work etc.) run during the training are just as they would be in the real world. Only money and traded goods are fictional. People on training are employed on the basis of virtual work contracts and follow the regular pace of a working day. While on training, trainees go through all units of a simulation company which is intended to make them better prepared to run their own businesses than those who do not have this kind of complex training and 'ex-ante' experience.

The simulation company as a mechanism of partnership between PES and training institution is one of the most effective forms of job training, but is also time-consuming and one of the most expensive. The per capita cost is around 3,000 EUR (12 000 pln) and includes: costs of lecturers, individual coaching, costs of using equipment and professional IT programmes, costs of training spaces and income support of trainees throughout the course of eight hours of training per day for 4-6 months. The PES usually covers the costs of recruitment and selection procedures and job and internship placement. Usually two labour office civil servants are responsible for performing this kind of partnership.

### **Actors and Services**

Simulation company training programmes usually involve a range of labour market actors, such as education institutions at various levels (vocational and high schools and universities), Vocational Education Centres; and commercial simulation companies. Simulation Company programmes usually target:

- Jobless people, usually graduates of high schools as well as jobless housewives;
- People in need of re-training and/or willing to change jobs;
- Long-term unemployed vulnerable groups (senior and young workers).

Women made up the majority of participants in two-thirds of programmes and were more likely to complete them. This may be the case because simulation company programmes are more often connected to back.

This case study is based on three case projects: (1) Project 'Simulation companies- skill upgrade of unemployed' conducted in 2009, 2010 and concluded in 2010 by the Vocational Education Centre in Zielona Gora (Lubuskie Region) in a form of co-operation with three local PES in Zagan, Nowa Sol and Zary; (2) Project 'New Perspectives' with key component of simulation company conducted and concluded in 2010 by local PES in Szczytno (Warmia & Mazury Region)

addressed to young unemployed with high school level of office services and administrative jobs where women usually predominate. Simulation companies or quasisimulation companies are also applied in the field of construction and are usually called 'Construction traverse'.

Unsurprisingly, participants here are mostly men. Beneficiaries of this form of partnership mechanism include:

- Directly: vulnerable unemployed with long track record of unemployment caused by lack of marketable skills;
- Indirectly: local PES as institutions using the most effective instruments to activate their unemployed;
- Indirectly: training institutions as partners of PES;
- Indirectly: employers whose employees are re-trained and up-skilled.

### **The regulatory framework and objectives**

The regulatory framework of programmes using simulation companies covers various regulatory schemes:

- Contracting or sub-contracting with Vocational Education Centres and commercial simulation companies by education institutions and labour market institutions such as local and regional PES in public procurement procedures or partnership agreements;
- Individual simulation company projects conducted by Vocational Education Centres with quasipartnerships (informal) with regional and local PES based on:
  - o The selection and supply of unemployed with targeted profiles, set up in a project;
  - o Internship placement in real companies after simulation company training;
  - o Job placement after simulation company training;
  - o Follow-up on placement.

Partnerships between the PES and training institutions using the mechanism of a simulation company aim to:

- Search for novel, more effective mechanisms of training of vulnerable groups of unemployed by PES;
- Give tailor-made solutions, through one of the most effective ways of vocational training to long-term unemployed and people without jobs or with outdated skills;
- Bring the unemployed back to the social routine of work (training in the 8 office hours system);
- Deliver practically trained and flexible employees to employers who are able to rotate between units and replace absent workers as people are trained across all units of an average company.

### **Measurements and the Results**

Out of the three projects under consideration, one has been evaluated ex-post and another is under evaluation at the present time. The third project is not yet concluded. The results of the ex-post evaluation of the Project 'Simulation companies - skills upgrade of the unemployed', conducted in 2009-2010 by the Vocational Education Centre in Zielona Gora (Lubuskie Region, Western Poland) in co-operation with three local PES in Zagan, Nowa Sol and Zary, are:

- 36 people recruited in the project (all women aged 23 to 59; the majority in the 30-45 age group); 32 completed the course, the other 4 having found employment during the course of the programme;



- 40% found employment after simulation company training and internship placement;
- 2 participants set up their own business in trade and services;
- Participants acquired soft skills such as the ability to organise their own work and that of others, to become assertive, to orient themselves and define their occupational preferences;
- Younger workers proved more skilled in computer techniques; senior workers more skilled in making strategic decisions based on life experience;
- Employers expressed great satisfaction with the results of this form of training compared to others; employees gained a better understanding of the structure, business model and logic of a company; they are flexible and prepared enough to perform different tasks and replace others, when needed.

The first results of the ongoing evaluation of 'New Perspectives', a project implemented in 2010 by the local PES in Szczytno (Warmia & Mazury Region, Eastern-North Poland) and addressed to young unemployed with high school degrees, show that:

- All 16 long-term unemployed women who were recruited completed the project;
- Participants are still in internship programmes after Simulation Company training;
- Positive feedback was received from employers.

## Case Study: United Kingdom <sup>34</sup>

With 1,500 PES offices and 80,000 personnel UK public employment service JobCentre Plus is largest in EU. Historically, they played dominant role as labour market intermediary. Apart from PES, however, variety of private organizations is involved in provision of job placement services, including a great many small employment agencies and few large multinational operators. Most of the private agencies offer permanent staff as well as temporary workers. As in many other countries, PES dominates in placing unemployed people or providing job matching services to employers seeking semi-skilled or unskilled labour. Private agencies provide services for organizations seeking highly skilled and professional workers.

Cooperation between employment services has been central to the delivery of the New Deal - workfare programme introduced in the United Kingdom by the first New Labour government in 1998. The stated purpose was to reduce unemployment by providing training, subsidised employment and voluntary work to the unemployed. A choice of provision and the availability of a range of service to meet individual client needs has always been part of the New Deal ethos. Accordingly, while Jobcentre Plus staff have retained a crucial management and service delivery role (especially in providing Personal Adviser support), a range of other public, private and third sector agencies have been contracted to deliver specialist services.

In 2003 their cooperation was limited to few segments: for example exchange information. But, the relationship between the UK's public employment service (Jobcentre Plus) and the UK's private recruitment industry has become increasingly important during and after the recession.

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<sup>34</sup> Naldini et al., (2011). SMALL-SCALE STUDY. Partnerships among Employment Services, MobilityLab, European Job Mobility Laboratory, Italy

REC is the representative body for the UK's £20 billion recruitment industry. It represents around 8,000 recruitment company branches, which constitutes half of all recruitment agency branches by number but a higher proportion by turnover. Over 85% of the recruitment industry in the UK is made up of small businesses, many of which operate on a local or regional level and specialise in particular sectors.

The two organisations came together to sign a Memorandum of Understanding in 2008, through which they agreed to work in strategic partnership. Many practices on public-private employment services are found in UK, such as Employment Zones or Pathways to work. Employment Zone is launched in 2000 in 15 areas of high unemployment. These used the expertise of contracted out providers who were given greater flexibility to deliver support but only got paid if they got jobseekers into sustainable employment. In 2007, private and voluntary sector providers were used to help deliver 'Pathways to Work' for people on incapacity benefits where payment to providers was predominantly linked to performance.

The vast majority of programmes came to an end in the spring of 2011 and were replaced by a single mainstream employment programme – the Work Programme. This builds upon many of the features of predecessor programmes including flexibility for providers, payment by results and a focus on long term jobs. Work Programme contracts last up to five years and incentivise providers to help jobseekers progress in sustainable employment.

Among many UK practices we identify Job-search support for newly unemployed professionals' programme ran from 6 April 2009 until 31 March 2011, as a good practice. The program, was aimed primarily at unemployed people who had recently left a professional or executive job.

## **Background and Context of the Partnership**

The recession in the UK – and on-going recovery – has proved an extremely difficult time for workers and employers alike. Whilst private sector job cuts hit first, the squeeze on government finances meant that a significant number of public sector workers also lost what were previously very secure jobs that had clear paths for promotion and progression. Naturally, these newly unemployed people turned to JobCentre Plus – the United Kingdom's public employment service – for help and support, not only for information on unemployment benefits, but also advice on securing a new role, which the majority were keen to do as soon as possible. These individuals tended to differ significantly from some of the higher-need clients that JobCentre Plus deals with, as the newly unemployed professionals had a long-term connection to the jobs market and a range of professional skills that higher-need clients often lack. This meant that those who had lost their jobs as a result of the recession often had very different needs from the long-term unemployed, to whom JobCentre Plus provide intensive advice and support to on an ongoing basis. With this backdrop, the Department for Work and Pensions approached the Recruitment and Employment Confederation (REC) in early 2009 to explore ways of harnessing the contribution of recruitment agencies in providing additional support to jobseekers in this 'professional' category.

## Services

Professionals and executives who lacked up-to-date job search skills were referred to approved recruitment agencies – all of them members of REC – by JobCentre Plus advisers. The agencies' role was to advise jobseekers about the best way to go about finding suitable new employment.

Guidance included:

- Mentoring and coaching;
- Motivational support;
- Assistance in writing updated CVs and marketing themselves;
- Providing valuable market information about the sector where they wished to work.

This support could be provided in person, or online, depending on location and the needs of the jobseekers. Some REC members developed innovative programmes of support that could be delivered to groups of professional jobseekers, which proved successful as well.

## Reasons for Partnerships

Upgrading the capacity of employment services to perform their current tasks - assisting all the new unemployed people during the crisis.

## Type of agreement

Interested agencies had to formally register their interest to the Department for Work and Pensions, submit an application and be accepted as a supplier of support services through the initiative. This means that the agencies involved were fully vetted and approved to provide the support and assistance to the target group of jobseekers, and had the demonstrable experience to prove they could successfully help them.

Recruitment agencies received a small payment of £150 for each jobseeker they assisted, upon completion of this provision. Whilst this was not a huge financial incentive, it encouraged REC members to take part, and was a cost-effective way for government to leverage the expertise of professional recruiters for professional jobseekers.

This relatively small sum offered a clear savings on the benefits that would otherwise be paid to jobseekers that remain unemployed, whilst the scheme also allowed JobCentre Plus staff to focus their expertise on the higher-need jobseekers they are specialised in dealing with.

## Actors

JobCentre Plus (public employment services) and members of REC (private employment services).

## Outcomes and impact

The approach shows that sharing expertise between the public and private sector can achieve positive outcomes for individual jobseekers. Instead of stretching existing programmes to include these professional jobseekers, which may not have addressed their needs sufficiently, JobCentre Plus staff could direct such individuals towards approved and reliable specialist

agencies. The agencies could provide insight and expertise on CV preparation, market trends, and selling yourself to potential employers, as well as providing links to their existing pool of employers and spotting opportunities for the professionals seeking work. This not only gave a rapid, tailored service to the individual jobseekers, it also meant that JobCentre Plus staff could focus their efforts on the longer-term unemployed or those clients with more complex needs. JobCentre Plus can offer such individuals the in-depth, government-backed assistance that agencies often cannot, given that they can be more difficult to place and often need ongoing support, help with benefits, etc.

In terms of practical delivery of the programme, although there were some teething problems at the outset – in particular relating to the need for recruiters and JobCentre Plus staffs to better understand each other’s work – the feedback has been very positive overall. In addition to addressing a critical need in the recessionary and post-recessionary labour market, the cooperation has served to further strengthen the links between the REC and JobCentre Plus. The results have also been very positive for individual jobseekers. Over 80,000 jobseekers have received targeted support, enabling many of them to get back into work. The achievements by individual agencies were also impressive. For example, one agency involved in the programme kept statistics on the outcomes for the newly unemployed professional jobseekers that they helped through this initiative. This agency helped some 1,653 professionals through their bespoke support programme, of whom 93% reported they were satisfied with the service and believed it was helpful for their job seeking activity. Some 63% were back in full-time work at the time the programme ended in March 2011.

On the negative side however is the lack of a comprehensive data set on the programme’s success. The REC is not aware that a full evaluation has been carried out, which may be due to the fact that the programme was designed for the particular circumstances attached to the recession rather than as an ongoing initiative. The REC believes that this cooperation could successfully continue now that the UK has returned to growth, however, especially since the recovery remains fragile and in many sectors, the recovery in employment terms is still slow. There is also a longer-term opportunity for continued partnership between JobCentre Plus and private agencies, as set out below. Despite the success of this initiative as a genuine private-public sector partnership, the Department for Work and Pensions unfortunately decided to end the scheme after its initial two-year run. This was due to budgetary pressures and, perhaps, the improvements in the job market post-recession, though these remain limited. This decision was especially disappointing for REC members who had taken part in the scheme and successfully developed their own expertise in dealing with unemployed professionals.

Although the financial incentive has now been removed, meaning that many agencies are no longer able to afford to take part, the scheme has certainly helped to build stronger links between JobCentre Plus and recruiters on a local level, as well as nationally. Now, the UK is implementing a new approach to welfare-to-work called ‘The Work Programme’, and the REC is spearheading efforts to develop links between the providers of this new programme and recruiters. To this end, the REC has hosted providers at meetings of its Diversity and Equality Forum to understand how recruiters can get involved for mutual gain, and has begun a project to link providers with its members across the country. Hopefully this programme will provide a new avenue for harnessing the expertise of REC members in helping unemployed people find new roles.

## Case Study: Bosnia and Herzegovina

Unemployment rate in B&H is among largest in Europe. The main role of PES in the last 20 years were registering and providing social benefits for unemployed people. The small part of PES their budget is allocated for active labour market measures. The licencing and the work of private agencies were regulated in 2009 and since then around 30 agencies are registered. However, more laws and regulations have to be changed and adopted in order to enable legal framework that will foster cooperation between PES and PRES.

The issue of public-private cooperation is more difficult due to the complex state structure. The state is divided on two entities: FB&H and RS. Additionally FB&H is divided on 10 Cantons. The PES exists on all those levels and on municipalities' level. The communication between them is difficult and responsibilities are unclear for vast majority of their users.

From the other side, private employment services providers do not have access to public funds and that limited the scope of services they can provide for unemployed persons. Their work is mostly focused on providing services for employers such as job advertising, recruitment and selection of candidates and headhunting except informing jobseekers on vacancies, providing them online tools for applying for jobs, online or phone support and organizing events that gathers jobseekers and employers, private employment agencies are very restricted in providing services for jobseekers.

Regardless, there were many initiatives to establish cooperation between public and private employment services providers, but they were mostly initiated by international donors or private employment agencies. There was one initiatives, actually came from Federal Ministry of labour and social policy, and it should serve as a pilot project for testing private agency capability to place long term unemployed people into employment. The Federal Employment Institute, the main public body for the one part of B&H, published a tender, but again the legal aspect was obstacle for success of this cooperation. The cooperation so far, has been mainly restricted to organization of events and trainings for unemployed people such us job fairs or job searching trainings.

However, there are examples of programmes financed by international donors where PES and PRES are met and worked together to deliver services for jobseekers and employers. Recently, more initiatives were taken in the fields of vocational and business skills trainings and results are yet to be expected.

Among the existing practices we chose Job matching services for unemployed youth, cooperation between PES and private employment agencies as a good practice to be described in this document.

## **Background and Context of the partnership**

Youth unemployment in B&H is highest in Europe. PES is unable to cope with this problem because their role is restricted to registering and social benefits for unemployed youth. It is counted that PES staff that works directly with jobseekers have only 3 min per one client in a month which is enough only for evidencing them in the unemployment register. The image of PES among the jobseekers and employers is poor and they used its services only because of the social benefits and financial incentives for employment. From the other side, private employment agencies are particularly strong in dissemination of information on vacancies for jobseekers and have professional and efficient services for employers. But due to their profit orientation, private agencies rarely or not at all provide services for jobseekers except informing them and advising online. The first integration of young people into the labour market is particularly hard. That was the reason why Youth Employment Project, funded by SDC, as one of its component decided to foster cooperation between public and private employment services in order to integrate young people into the labour market and place them into employment.

## **Actors**

PES (Federal Employment Institute and Employment Institute of RS), Private Employment Agencies, supported by Youth Employment Project, funded by SDC

## **Type of Contract**

MoU between PES and PRES, market based service providers' contract between private employment agencies and YEP project. Although no targets were set, and the contract was not based on success fee, the minimum requirements regards the successful job placement were set and penalty was introduces in case of not meeting them.

## **Model of cooperation**

Private Employment agencies were acting as a support for public employment services in providing matching services. No target was set for the numbers of young people, matched with vacancies, although statistics were required for information and reporting purposes. Private agencies reported directly to YEP. The cooperation between PES and PRES were limited to exchange of information and joint organization of events for job seekers. PES is informing unemployed people through local offices on events. From the other side, private agencies provide all the other services.

## **Services**

Private agencies provided: job matching services, job searching trainings, job searching events and individual counselling. As the first step private agencies formed a data base of jobseekers that applied for the program, more than 20,000 of them. Due to the limited budget, they couldn't provide full agency services and individual services for each jobseeker - but rather focus on demand side of the market and the employers need for specific candidates. They preselected the candidates, analyse employers' needs and then forward the candidates to the employers. Besides

collecting data on jobseekers and pre-selection process, they organize job searching trainings, job fairs and in smaller scale individual counselling.

## **Outcomes and impact**

1500 young people are employed through this program. Additionally, over 30 local job fairs were organized and over 3000 young people received training on job searching.<sup>35</sup>

Although the results were above expected, this component of project is closed. Cooperation between public and private employment services continue only in segment of exchanging information on vacancies. The obstacles for this cooperation are clearly seen in legal framework that doesn't support the cooperation and lack of initiative among the public employment services. However, it is expected that cooperation will start in larger scale in the near future since it is supported by Ministry of labour and social affairs of FB&H and Agency for work and employment of B&H. The case study described above showed that services of private agencies in B&H could be outsourced to improve the capacity of public sector to provide services for both jobseekers and employers.

The main disadvantage of this cooperation was the lack of operational plan that will define the roles and responsibilities of the partners, which resulted in uncoordinated service delivery. The private agencies conducted most of the activities while PES had passive role in the project. However, this example shows that private agencies could be valuable partners for the PES in the region through joint projects and programs or outsourcing the service, and that unemployed people could benefit from this cooperation.

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<sup>35</sup> European Commission, (2010). 2020 EUROPE 2020 - A European strategy for smart, sustainable and inclusive growth, Brussels

## 5. Overview of Licensing and Legislation Aspects of PPES

The purpose of this part of the document is to present results of research on licensing non-public employment service providers and legislation aspects on public-private cooperation and dialogue of employment services from EU and regional countries.

The following are the key findings:

In most of the countries, analysed within this research, private employment agencies (PRES) are legal but their licensing and work is tightly regulated, according to the Convention 181 from 1997 of the International Labour Organization, which formulates international labour standards in the form of Conventions and Recommendations setting minimum standards of basic labour rights.

Public authorities retain their role as final authority in creation and formulation of labour market policies and in the utilization and control of public fund for implementation of these policies. PES, although not the sole employment services provider, remains as the main implementer of labour market policies funded from the public resources.

Countries, which have ratified Convention 181, allow development of private employment agencies through licensing and registration systems (accreditation, authorization, incorporation, etc.) and offering protection of workers, fair treatment and the opportunity for freedom of association and social dialogue. Registration means that PRES are registered with a government authority, while licensing requires the previous authorization of a PRES before commencing business. This is reflected in Article 3 of Convention No. 181 in which Member States are called on to “determine the conditions governing the operation of PRES in accordance with a system of licensing or certification, except where they are otherwise regulated or determined by appropriate national law and practice”

Cooperation of public and private employment services is also regulated and includes the joint activities in the field of: mutual information exchange, job matching activities, career counselling, training provision, active labour market measures etc. Private agencies in most of the countries have access to public funds through open competition, while PES in the most cases issues the tender invitation and conduct monitoring and evaluation. Private agencies can also be contracted by PES for delivering specific services. Notwithstanding, examples of such practise are rare in regional countries. Although the legal framework for cooperation in those countries exists, it remains just on the paper.

The most flexible legal framework exists in The Netherlands where private agencies, in particular temporary employment agencies, had significant role in dealing with effects of economic crisis. The licensing of private agencies in Netherland is not obligatory.

The relationship between public and private agencies is very close in Netherland and UK while in the regional countries is restricted on exchange of information and organizing joint events.



It can be concluded that legal framework in analysed EU countries foster public-private cooperation of employment service in accordance with ILO Convention and EU strategy, while the countries of the region have to do more in order to intensify that cooperation and implement existing legislation.

Employment laws can be made by legislatures through legislation (resulting in statutes), the executive through decrees and regulations, or judges through binding precedent (normally in common law jurisdictions). The formation of laws themselves may be influenced by a constitution (written or unwritten) and the rights encoded therein. The law shapes politics, economics, and society in various ways and serves as a mediator of relations between people. For the purpose of this report this issue is analysed and presented below by every individual country and functions of public and private agencies on country basis (national law and practices, policies) and country laws (legislatures through legislation, statutes, decrees and regulations or jurisdictions).

Below will be presented: legal status of employment services (is it clearly regulated statute law governing – statutory regulation, general law or range of issues); establishment of employment services (private and public), regulation of practices and work of private and public services will be analysed for each country in this study; policy background of public-private cooperation.

## Bosnia & Herzegovina

Employment agencies, whether private or public, can either promote equal opportunities and improve transparency in the labour market or perpetuate discriminatory practice<sup>36</sup>. In Bosnia, the establishment of private employment agencies, their work, competence, restrictions and the way of cooperation with public institutions is defined by the *Law on Mediation in Employment and Social Security of Unemployed Persons*<sup>37</sup>. This is „a crucial legislative act in the Federation of Bosnia and Herzegovina in the employment sector.“<sup>38</sup> *Regulation on private employment agencies* was defined in 2009.

### Law on Mediation in Employment and Social Security of Unemployed Persons <sup>39</sup>

This Law (Article 1) regulates the rights and obligations of the Federation of Bosnia and Herzegovina in specifying and implementing the overall measures that improve the conditions for employment, basic principles in employment mediation, material and social security of unemployed persons during temporary unemployment, establishment, organization and work of the Federal Employment Service, cantonal public employment services, financing of the overall employment activities and other issues, in compliance with the competences of cantons and their differences.

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<sup>36</sup> International Labour Organization (2007);

<sup>37</sup> <http://fzzz.ba/pravna-regulativa/zakon-o-posredovanju-u-zapoljavanju-i-socijalnoj-sigurnosti-nezaposlenih-osoba>  
<sup>38</sup> <http://yep.ba/wp-content/uploads/2014/07/DraftStrategyforMediationFBiH.pdf>; Available at: December 2014;

<sup>39</sup> The Law on Mediation in Employment and Social Security of Unemployed Persons (Official Gazete of the Federation of Bosnia and Herzegovina No. 5/0, 41/01, 2/05, 9/08);

Mediation in employment "includes all actions and measures taken, in accordance with the law, for the purpose of connecting unemployed persons seeking employment, as well as employed persons seeking for a change in employment, with the employer who needs employee for employment"(Article 25).

Mediation in employment, on the territory of the Federation, may be performed by public employment services and another entity (private agencies). The Government will establish regulation conditions for the establishment of private agencies (Article 26). Services of private agencies are free for persons seeking employment (Article 27).

### **Regulation on private employment agencies <sup>40</sup>**

On the basis of Law on Mediation in Employment and Social Security of unemployed persons, Government of the Federation of Bosnia and Herzegovina, on the 97th session held in Sarajevo on 9 April 2009<sup>41</sup>, adopted the Regulation on private agencies for mediation in employment which establishes: conditions and ways of doing mediation business in private employment agencies; activities of private agencies; registration of agencies and the method of issuing licenses; technical work conditions; the abilities to access public funds; cooperation between private agencies and employment services etc. In the Report of the Federal Ministry (2008) Federal agency and cantonal employment services have recognized the role of private agencies in improving the functioning of labour markets and, by supporting the creation of this regulation.<sup>42</sup>

### **Establishment and regulation of private employment agencies**

According to Article 2 of the Regulation on private agencies for employment mediation, mediation in employment "includes all actions and measures taken for the purpose of connecting unemployed persons seeking employment, as well as a person seeking a change of employment, with the employer where the employee is required in order to conclude a contract of employment or conclusion of the contract for execution of temporary and occasional jobs."

Activities of private agencies are related to employment mediation, counselling and informing employers and unemployed persons about employment opportunities, organizing training and education of unemployed persons; career guidance, informing and counselling of professionals and the development of methods for vocational guidance (Article 3). For these activities private agencies can take fee only from the employer (Article 17) and the prices of services must be determined by special act issued by a private agency.

An employment agency can be founded by legal entities registered as companies (Article 4). Federal Ministry of Labour and Social Policy can issue a licence (Article 5). For gaining a licence, registered company must have at least two employers, of whom one must have a university degree or completed at least the first cycle of higher education in accordance with the Law on Higher Education in Bosnia and Herzegovina; execute the obligation to pay taxes and

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<sup>40</sup> Uredba o privatnim agencijama za posredovanje u zapošljavanju ("Službene novine Federacije BiH", br. 290/09);

<sup>41</sup> <http://www.fbihvlada.gov.ba/bosanski/zakoni/2009/uredbe%20registar%202009.htm>; Available at: December 2014;

<sup>42</sup> <http://www.fzzz.ba/onama/Izvjestaj%20o%20radu%20za%202008.pdf>; Available at: December 2014;

contributions in accordance with the law and have the appropriate facilities and equipment for carrying out activities (Article 6).

Private agencies are not allowed to mediate in cases where private agency has knowledge that employer wants to replace employees who participate in the strike (Article 12) and to mediate in a way that may result in mislead persons seeking employment and employers seeking people for employment (Article 13). A special article relates to a prohibition of discrimination (Article 11) which states that private agencies cannot bring the unemployed at a disadvantage because of race, colour, sex, language, religion, political or other opinion, national or social origin, property status, birth or other status, membership in a political party, membership or non-membership in a trade union, physical or mental impairment, and any other form of discrimination.

Private agencies have access to public funds in a public open competition in the media, which allows access to public resources for private agencies to achieve goals and/or tasks of an open competition (Article 14). They can be partners in the projects financed by donors and international financial institutions (Article 15). The competent institution that issued the tender invitation will conduct monitoring and evaluation.

According to Article 18, a private agency must keep a record of job seekers and employers who report a need for employees in accordance with the Regulations on Records in the field of employment and the unemployed person<sup>43</sup>. Private agencies can collect only the information in accordance with the Regulations on protection of personal data (Article 19) and submit them to other persons in accordance with the Law on protection of Personal Data<sup>44</sup> (Article 22) which aims to secure all persons on the territory of Bosnia and Herzegovina, regardless of their nationality or residence, respect for human rights and fundamental freedoms, and particularly the right to privacy with regard to the processing of personal data relating to them<sup>45</sup>.

Private agency is responsible that documentation on mediation and records are kept in accordance with special regulations (Article 20). Private agency can show the data on unemployed persons only to the employer for whom he mediated, and to job-seekers in the part related to them (Article 21).

Supervision of work of private agencies is conducted by the Ministry and supervision of the execution is conducted by Work inspection.

## **Public-Private Cooperation of Employment Services**

Public-Private Cooperation of Employment Services in Bosnia and Herzegovina is defined in Article 24 of the Regulation which states that the private agency can establish cooperation with the employment services in the field of mutual information exchange, except the information which are considered as confidential pursuant to Article 15 of the Law on Mediation in employment and social security for the unemployed and joint projects and activities.

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<sup>43</sup> Pravilnik o evidencijama u oblasti upošljavanja („Službene novine Federacije BiH“, broj 24/06).

<sup>44</sup> Zakon o zaštiti osobnih podataka (“Službeni glasnik BiH”, broj 32/01);

<sup>45</sup> [http://www.mefimo.ba/ured-pssp/images/dokumenti/zakon\\_podaci.pdf](http://www.mefimo.ba/ured-pssp/images/dokumenti/zakon_podaci.pdf); Available at: December 2014;

Detail cooperation of private agencies, Federal Employment Service and public employment services has to be regulated by the Cooperation Protocol.<sup>46</sup>

Private employment agencies, which effectively perform the intermediary role, can give a large contribution to increasing employment in B&H. Although recent changes in legislation significantly improved the legislative solutions, the problem is still present in the non-competitiveness of existing institutes and private agencies for mediation in employment, which is proved by the results of analyses of active employment measures, and analyses the situation and needs of private mediation services in B&H (according to Dragović & Duke, 2011). It is expected that the integration of Convention 181 recommendations in the national legislation will lead to the creation of a new "industry". „This is a new opportunity for 50- 60 000 new workers each year entering the labour market, which is allowing them to easily reach the required work experience at the same time and full-time employment."(Draganić, 2011; p. 13).

For better results of private employment mediators, it is still necessary to improve legislation in B&H which would increase equality of public institutions and private employment agencies and create a "healthy" competition between them, all in the interests of the unemployed.<sup>47</sup>

## Republic of Serbia

*Law on Employment and Unemployment Insurance*<sup>48</sup> regulates the operation of public employment services and private employment agencies<sup>49</sup>.

Employment activities, in terms of the Law (Article 6), can comprise dissemination of information on employment opportunities and conditions; job-matching within the country and internationally; vocational guidance and career counselling; implementation of active employment policy measures; issuing work permits to foreigners and stateless persons.

Employment affairs can be carried out by the National Employment Service (NES) and employment agencies. This Law sets out, inter alia, the legal framework for employment policy planning and programs, the NES mandate, organization and management structures, mandatory employment plans for NES unemployed clients, performance measurement of the NES and the establishment of active employment policy monitoring and evaluation alongside the reporting lines (Kavanagh, 2010; p. 13). All above is defined in the Articles 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19. This Law also sets out parameters for cooperation with private employment agencies.<sup>50</sup>

The rights and duties of the unemployed person are defined in Article 31 and it's stated that unemployed person can use NES and private agency services free of charge. Supervision is

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<sup>46</sup> <http://www.fbihvlada.gov.ba/bosanski/zakoni/2009/uredbe/14.htm>; Available at: December 2014;

<sup>47</sup> <http://www.edabl.org/Uploads/admin/Unapre%C4%91enje%20legislative%20posredovanja%20pri%20zapo%C5%A1ljavanju.pdf>; Available at: December 2014;

<sup>48</sup> Zakon o zapošljavanju i osiguranju za slučaj nezaposlenosti („Službeni glasnik Republike Srbije“, br.36/2009);

<sup>49</sup> On the day of the entry of this Law into force, the Law on Employment and Unemployment Insurance (RS Official Gazette No 71/03 and 84/04 – another law), provisions of Articles 2–10 of the Law on the Protection of Citizens of the Federal Republic of Yugoslavia Working Abroad (FRY Official Journal No 24/98 and RS Official Gazette No 101/05) – the part pertaining to employment, provisions of Articles 8–22 and 26–40 of the Law on Registries in the Field of Labour (FRY Official Journal No 46/96 and RS Official Gazette No 101/05) ceased to be in force;

<sup>50</sup> [http://www.paragraf.rs/propisi/zakon\\_o\\_zaposljavanju\\_i\\_osiguranju\\_za\\_slucaj\\_nezaposlenosti.html](http://www.paragraf.rs/propisi/zakon_o_zaposljavanju_i_osiguranju_za_slucaj_nezaposlenosti.html); Available at: December 2014;

conducted by the Ministry of employment. Ministry supervises the implementation of laws and regulations as well as the work of the National Employment and agencies.

An employment agency – legal entity can be fined RSD 200,000 to 600,000 for an infraction:

- if it conducts employment affairs for which it has been licensed in contravention of the Law;
- if it conducts employment affairs for which it has not been licensed;
- if it engages in employment of minors, employment in high-risk jobs;
- if employment affairs are conducted by a person without professional qualifications;
- If employment affairs are conducted by a person who does not fulfil the requirements stipulated by Article 22.

## **Active Employment Policy**

Active employment policy represents a system of plans, programs, and measures aimed at increasing employment and decreasing unemployment and the core instrument of active employment policy is the National Employment. Action Plan, compliant with the National Employment Strategy, is adopted by the Government, at the Ministry's proposal.

The Action Plan contains the macroeconomic framework for:

- employment policy design and implementation;
- labour market situation and trends, in detail for the following year and in general for the three subsequent years;
- employment policy goals and priorities;
- active employment policy programs and measures for the following year, with assigned responsibilities for their implementation and required funds;
- financial framework for employment policy and funding sources;
- institutions responsible for implementation of activities envisaged by the Action Plan;
- Groups of hard-to-employ persons that have priority in inclusion into active employment policy measures; success indicators of programs.

Active employment measures are measures aimed at stimulating employment: job-matching services for jobseekers; vocational guidance and career counselling; employment subsidies; support to self-employment; further education and training; incentives for users of unemployment benefit; public works; other measures aimed at persons seeking employment (Article 43).

Job-matching can be understood as the activities of matching jobseekers and employers for the purposes of entering into a contract of employment or other engagement. Job-matching activities (Article 44) comprise matching labour market supply and demand; preliminary selection of jobseekers, in view of a particular employer's requirements for a specific job, as well as the jobseekers' education level and type, occupation, knowledge and skills and working experience; counselling aimed at adequate occupational choice and active job search techniques; development of individual employment plan with an unemployed person; referring jobseekers to employer for the purpose of taking part in the selection for employment or other engagement. In the job-matching procedure, an unemployed person has the precedence over a person seeking change of employment.

## **Establishment and regulation of private employment agencies**

An employment agency can be founded by legal or natural entities for the purpose of conducting employment affairs (dissemination of information on employment opportunities and conditions; job-matching within the country and internationally; vocational guidance and career counselling; implementation of particular active employment policy measures, based on a contract with the NES). Private agency can't engage in employment of minors, or placement in high risk jobs, in accordance with provisions regulation the relevant field. During a strike, agency cannot perform placement services to fill the strikers' jobs, except in the event that the minimum service has not been provided.

### **Operating Licence**

The operating license can be issued to an agency by the Ministry upon a written request, on condition that the agency fulfils requirements regarding space and technical equipment, professional qualifications of its staff<sup>51</sup>. Operating license may be issued to an agency which has at least one employee with a university degree. Requirements in terms of space and technical equipment, professional qualifications of its staff, as well as the program, contents and manner of sitting the employment professionals' examination can be prescribed by the Minister in charge of employment affairs.

Private agency can't be founded by (or have employment affairs conducted) by a person who: has received an unconditional sentence of imprisonment for at least six months for a criminal offence; is the founder of an agency whose license to conduct employment affairs have been revoked (Article 22).

An agency has to pay a fee for issuing of the license, the amount determined by the Government. The license is issued for a period of five years and can be extended. The license can be revoked by the Ministry if the agency: ceases to meet the requirements referred to in Article 21; has performed employment services contrary to the Law; if the agency's founder receives an unconditional sentence of imprisonment for at least six months. The agency may be reissued the license upon expiry of three years from the day of revocation of the license.

### **Employment abroad**

Employment abroad is defined in the Articles 95. and 96. on the basis of registration of a vacancy abroad, received by the Ministry, NES or agency. In order to facilitate employment abroad, the Ministry can conclude a contract on employment with the foreign competent authority, organization or employer. The NES and agency can engage in job-matching for the purpose of employment abroad in the manner and according to the procedure envisaged for employment in the country. The NES and agency are obliged to ensure the protection of the individuals that are employed abroad.

The protection of individuals employed abroad means at least equal treatment on the basis of labour with the nationals of the destination country during the work and stay abroad. Protection

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<sup>51</sup> A qualified person is a person who has completed at least secondary school and passed the employment professionals' examination.

of individuals employed abroad means securing working and residence permits, costs of general, sanitary and specific medical examinations and issuing of the health capability bill; transport expenses; information with regard to living and working conditions, labour rights and obligations; conclusion of the employment contract prior to the departure abroad and other contractual rights. The NES and agency can engage in job-matching for the purpose of employment abroad if there are no obstacles for the departure of the individual abroad in accordance with law and they need to submit to the Ministry notifications on individuals to be employed abroad, their number and structure, and other data pertaining to employment abroad, prior to their departure to work abroad.

## Public-Private Cooperation of Employment Services

By this Law, the cooperation between public and private employment agencies is partially defined in the Article 27. It is stated that NES can contract an agency to implement particular employment affairs, in accordance with the Performance Agreement. Mutual rights and duties of NES and an agency need to be defined by contract. According to Kavanagh (2010), NES has signed cooperation agreements with 39 employment agencies and advertise their vacancies in the Branch offices if required. Private agencies have also been involved in Job Fairs organised by the NES.

## Republic of Macedonia

The Republic of Macedonia has the constitutional and legal obligation to create policies that are aimed at full and free chosen employment. According to Mojsoska-Blazevski (2009) in article 42 of the Constitution it is stated that “each citizen of the Republic of Macedonia has the right to work, to free choice of employment, protection at the work place, as well as financial assistance during temporary unemployment” (Ruzin, 1994; p.195; according to Saveska & Brown, 1999). The responsible governmental body for creating the legislative framework of labour market policies, which is the same that exercises control and supervision, is the Ministry of Labour and Social Policy.

After the independence of the country, the Ministry designed or revised several laws on the issue of employment<sup>52</sup> including the *Labour Relation Law*<sup>53</sup>, the *Law for Labour Inspection*<sup>54</sup>, the *Employment Law*<sup>55</sup>, the *Law of Employment and Insurance in Case of Unemployment*<sup>56</sup> and the *Law for Increasing Employment*, which came into effect in January, 1998.

Employment services are provided through the State Employment Bureau and its 30 regional labour offices. The legislature, and the Bureau have established broad objectives for addressing unemployment, including almost all possible passive and active labour market policies.

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<sup>52</sup> <http://www.doingbusiness.org/~media/FPDKM/Doing%20Business/Documents/Reforms/Case-Studies/2007/DB07-CS-EW-Macedonia.pdf>; Available at: December 2014;

<sup>53</sup> Enacted in December 1993, and amended in 1995;

<sup>54</sup> Enacted in 1987, revised in 1989, 1991, and 1993;

<sup>55</sup> Enacted in 1987, revised in 1989, 1991, and 1993;

<sup>56</sup> Came into force in August 1997;

## Labour Relations Law<sup>57</sup>

Labour Relations Law regulates the implementation of rights, the organ of the government administration in charge of labour inspection, supervises the implementation of laws and other regulations pertaining to labour relations and employment as well as collective agreements and employment contracts, that regulate the employment rights, liabilities and obligations of the employees. Matters concerning the supervision of labour are conducted by labour inspectors, obligations and responsibilities of the employee and employer pertaining to employment (Larson and Minoski & Morris, 2007).

This Law contains *General provisions* (Conditions for Commencing Employment, The Procedure for Commencing Employment, Employment Booklet, Full Time and Part Time Employment, Trainees, Reassignment of Employees), *Employee's rights and their status* (Working Hours, Vacations and Leave, Occupational Safety and Health, Special Protection of Women, Juveniles and Disabled Employees, Salaries and Benefits), *Trade unions and employers, Collective agreements, Liabilities, Termination of employment* (Termination of Employment Through Agreement, Termination of Temporary Employment, Termination of Employment Enforced by Act, Termination of Employment Through Notice, Termination of Employment Through Notice Due To Economic, Technological, Structural or Similar Changes), *Protection of rights of employees, Supervision and inspection in the field of employment, Penalty clauses and Transitional and concluding provisions*.<sup>58</sup>

## Law of Employment and Insurance in Case of Unemployment

Few innovations in terms of employment policy were brought into effect by the 1997 Law of Employment and Insurance in Case of Unemployment. Besides establishing the system of compulsory insurance of workers in case of unemployment including financial assistance, training, retraining, health insurance, pension and disability insurance, the law had also a goal to provide incentives for creating new jobs through a subsidy system, by exempting employers from the employees' personal income tax during three years. This law also provided the legislative framework for the creation of private agencies for employment assistance in order to increase the process of placement of unemployed, as well as to promote active labour market policies. However, all of this was a theoretical outline, which remained on paper (Saveska, 1999; p.9).

## Law for Increasing Employment

Real positive results in terms of employment growth have been achieved by the Law for Increasing Employment of 1998. The real implementation of the standard active labour market policies in Macedonia began in 1995 when the Government, supported by the World Bank, created the Project for Social Reform and Technical Assistance. The responsibility for the implementation of this project was delegated to the Agency of the Republic Macedonia for Transformation of Enterprises with Social Capital that undertook several activities for implementing the program for redeployment, which including the following components:

- Job counselling and employment advice;

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<sup>57</sup> Labor Relations Law („Official Gazette of the Republic of Macedonia“ No. 80/93-2007);

<sup>58</sup> <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/47727/65084/E93MKD02.htm>; Available at: December 2014;



- Training and retraining;
- Public works;
- Counselling for start-up own businesses;
- Incubators for new micro businesses and small entrepreneurs;
- Planning of regional economic development through starting new small businesses and creating new jobs.

While the Law helped increase hiring, it was repealed in 1999, as the new government found it largely ineffective and burdening to the budget (International Monetary Fund, 2000).

### **The ILO-convention 181 from 1997<sup>59</sup>**

The argument for the existence private employment agencies in Macedonia is that given that a Public Employment Services does not depend on the market for its existence, its services may not match demand so that private employment agencies may fill this gap (Mojsoska-Blazevski, 2009; p. 121). Assuming that private agencies operate more effectively and efficiently, increased competition may induce a PES to improve quality and efficiency<sup>60</sup>.

Adopted in 1997, ILO Convention 181 on private employment agencies offers legal recognition and support for the development of the activities of private employment agencies. It recognises the role private employment agencies can play in a well-functioning labour market. Appropriate regulation on the industry enables private employment agencies to operate as well as protecting the workers using their services (Article 2.3).<sup>61</sup>

Countries which have ratified Convention 181 allow for the sound development of private employment agencies through licencing and registration systems (accreditation, authorization, incorporation, etc.) and offering protection of workers, fair treatment and the opportunity for freedom of association and social dialogue. Registration means that PRES are registered with a government authority, while licensing requires the previous authorization of a PRES before commencing business. This is reflected in Article 3 of Convention No. 181 in which Member States are called on to “determine the conditions governing the operation of PRES in accordance with a system of licensing or certification, except where they are otherwise regulated or determined by appropriate national law and practice” (ILO, 2007; p.13).

According to the Law on Employment and Insurance in Case of Unemployment, the MLSP keeps registry of and gives licences to the private employment agencies. Establishing a regulatory level playing field for private employment services is a pre-condition to maximise their contribution to better functioning labour markets. This contribution has been recently complemented by the concrete commitments that Ciett members made in May 2012 at the World Employment

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<sup>59</sup> Supplemented by the ILO Private Employment Agencies Recommendation (No. 188 from 1997); Israel and Former Yugoslav Republic of Macedonia ratify ILO Convention 181 on Private Employment Agencies;

<sup>60</sup> <http://www.ciett.org>; Available at: December 2014;

<sup>61</sup> Ciett President Fred van Haasteren stated “ILO Convention 181 on Private Employment Agencies is an important tool in developing an appropriate regulatory framework for private employment services. It enables the industry to play its important role as intermediary and employer in labor markets and offers protection to workers. I call on all our key stakeholders, and especially trade unions to work with Ciett and the ILO to encourage more governments to implement the convention as a minimum standard of regulation for private employment agencies“;

Conference in London. The private employment services industry represented by Ciett, committed itself to enhancing the industry's contribution to labour markets.<sup>62</sup>

This convention requires deregulation of the market for private agencies and temporary work agencies as long as worker rights are respected. Convention 181 also ensures that private employment agencies do not charge fees to workers and offer a range services to them for free. The Convention is accompanied by ***Private Employment Agencies Recommendation No 188*** which regulates:

A) *General provisions;*

B) *Protection of workers.*

Members should adopt all necessary and appropriate measures to prevent and to eliminate unethical practices by private employment agencies. These measures may include laws or regulations which provide for penalties, including prohibition of private employment agencies engaging in unethical practices.

Workers employed by private employment agencies should have a written contract of employment specifying their terms and conditions of employment. As a minimum requirement, these workers must be informed of their conditions of employment before the effective beginning of their assignment (Article 5). Private employment agencies should not make workers available to a user enterprise to replace workers of that enterprise who are on strike (Article 6). The competent authority should combat unfair advertising practices and misleading advertisements, including advertisements for non-existent jobs.

Private employment agencies should not knowingly recruit, place or employ workers for jobs involving unacceptable hazards or risks or where they may be subjected to abuse or discriminatory treatment of any kind. Also, agency should inform migrant workers, as far as possible in their own language or in a language with which they are familiar, of the nature of the position offered and the applicable terms and conditions of employment. Private employment agencies should be prohibited, or by other means prevented, from drawing up and publishing vacancy notices or offers of employment in ways that directly or indirectly result in discrimination (on grounds such as race, colour, sex, age, religion, political opinion, national extraction, social origin, ethnic origin, disability, marital or family status, sexual orientation or membership of a workers organization). Private employment agencies should be encouraged to promote equality in employment through affirmative action programs.

Private employment agencies must be prohibited from recording, in files or registers, personal data, which are not required for judging the aptitude of applicants for jobs for which they are being or could be considered. Private employment agencies can store the personal data of a worker only for so long as it is justified by the specific purposes for which they have been collected, or so long as the worker wishes to remain on a list of potential job candidates.

Measures should be taken to ensure that workers have access to all their personal data as processed by automated or electronic systems, or kept in a manual file. These measures should include the right of workers to obtain and examine a copy of any such data and the right to demand that incorrect or incomplete data be deleted or corrected. Unless directly relevant to the requirements of a particular occupation and with the express permission of the worker concerned, private employment agencies should not require, maintain or use information on the

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<sup>62</sup>[http://www.ciett.org/index.php?id=110&tx\\_ttnews%5Btt\\_news%5D=260&tx\\_ttnews%5BbackPid%5D=1&cHash=259dcb17d4ec94af8dbfba18575e936e](http://www.ciett.org/index.php?id=110&tx_ttnews%5Btt_news%5D=260&tx_ttnews%5BbackPid%5D=1&cHash=259dcb17d4ec94af8dbfba18575e936e); Available at: December 2014;

medical status of a worker, or use such information to determine the suitability of a worker for employment. Private employment agencies should have properly qualified and trained staff and agencies and they should take measures to promote the utilization of proper, fair and efficient selection methods.

Having due regard to the rights and duties laid down in national law concerning termination of contracts of employment, private employment agencies should not:

- prevent the user enterprise from hiring an employee of the agency assigned to it;
- impose penalties on an employee accepting employment in another enterprise;
- restrict the occupational mobility of an employee (Article 15).

### *C) Relationship between public and private employment services*

Cooperation between the public employment service and private employment agencies in relation to the implementation of a national policy on organizing the labour market is encouraged. For this purpose, bodies may be established that include representatives of the public employment service and private employment agencies, as well as of the most representative organizations of employers and workers.

Measures to promote cooperation between the public employment service and private employment agencies could include:

- pooling of information and use of common terminology so as to improve transparency of labour market functioning;
- exchanging vacancy notices;
- launching of joint projects, for example in training;
- concluding agreements between the public employment service and private employment agencies regarding the execution of certain activities, such as projects for the integration of the long-term unemployed;
- training of staff;
- consulting regularly with a view to improving professional practices.<sup>63</sup>

## **Law on Agencies for Temporary Employment<sup>64</sup>**

In 2006, a specific Law on Agencies for Temporary Employment was adopted in the Republic of Macedonia, with an overall objective to reduce the informal labour market and increase flexibility for employers in quick adjustment to the demand.<sup>65</sup> The law defines the procedures and terms for establishment of temporary work agencies define temporary work, and cases in which workers can be temporary employed. Temporary work can be used for replacement of temporary absent worker, temporary increased workload, seasonal work, project work, specific non-continuous work that is not part of the main firm activity, unexpected short-term activities in the main area of activity.

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<sup>63</sup>[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312526:NO](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312526:NO); Available at: December 2014;

<sup>64</sup> <http://www.minoritycentre.org/library/law-agencies-temporary-employment-macedonia>; Available at: December 2014;

<sup>65</sup> <http://www.partner.com.mk/eng/images/stories/dokumenti/Zakon%20za%20Agencii%20za%20privremeni%20vrabotuvanja.pdf>; Available at: December 2014;

## Poland

The rapid growth of private employment agencies has been due to a number of factors: a rapidly changing and flexible labour market; constraints in the operations of public employment services; and, the use of other networks for placement. With companies increasingly seeking more flexible and mobile staff, and with workers willing to move across borders under varied work arrangements, private recruiters have become even more important to the efficient functioning of labour markets. Against the backdrop of changing national and global labour markets, private employment agencies have steadily increased their market share and expanded their business activities.

### The Labour Code

Basic act regulating employment in Poland is Act of 26 June 1974 - the Labour Code. The Labour Code is the key legal act regulating relations between employers and employees. It sets out conditions under which work can be carried out in Poland.<sup>66</sup> This Code comprises “both an article stipulating the right to work (a formal guarantee of full employment in the communist economy), and the “duty to work”.” (Surdej, 2004)

A number of Acts and ordinances to the Acts regulate more specifically various aspects of employment. In particular, health and safety at work are specifically regulated. There are authorities appointed to ensure that labour laws and working conditions regulations are complied with – State Labour Inspectorate and State Sanitary Inspectorate.

The Polish law regulates temporary work and the services of the employment agencies. Public Employment Services in Poland established the following administrative self-governance levels: self-government of the Voivodeship (Region); self-government of Poviats (District) and self-government of Gmina (Municipality).<sup>67</sup> A new division of competencies between state government and self-government administration based on self-government model entered into force on 1 January 2000. The reform established a network of poviats and voivodship labour offices created by self-government authorities: 341 poviats labour offices and 16 voivodship labour offices (number of offices as of 2012). Labour offices became subordinated to poviats and voivodship self-government.

### Private Employment Agencies: Regulation, Monitoring and Enforcement

Private employment agencies have been authorized in Poland since 2002 under certain regulatory conditions. These authorized agencies are obliged to register job-seekers and to submit information on their activities to the Ministry twice yearly. Such information includes placement activities (number of job offers, number of persons who started a job, countries where Polish nationals are posted etc.) and revenues received and costs incurred by placement activities (Barbier and Hansen & Samorodov, 2003).

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<sup>66</sup> [http://www.paiz.gov.pl/polish\\_law/labour\\_regulations#1](http://www.paiz.gov.pl/polish_law/labour_regulations#1); Available at: December 2014;

<sup>67</sup> [http://www.eures.praca.gov.pl/en/index.php?option=com\\_content&view=article&id=119:public-employment-services-in-poland&catid=34:aktualnosci](http://www.eures.praca.gov.pl/en/index.php?option=com_content&view=article&id=119:public-employment-services-in-poland&catid=34:aktualnosci); Available at: December 2014;

An Act regarding the promotion of employment and labour market institutions<sup>68</sup> was passed by the Polish parliament in April 2004 and started to come into force on 1 May. This legislation deals with the state's duties with respect to fostering employment, assuaging the impact of unemployment and "activating" unemployed people. An important role in the achieving these objectives is envisaged for the social partners. The legislation was adopted on 1 May 2004 - the date of Poland's accession to the EU. <sup>69</sup>

The Act comes into force in stages. Certain provisions have been in force since 1 May 2004, while the Act as a whole became law on 1 June, with isolated provisions coming into force on 1 September 2004 and on 1 January 2005. The Act regarding promotion of employment and labour market institutions provides that the state's labour market policies are based on a "domestic plan of pro-employment activities" drawn up by the cabinet with due heed for pertinent provisions of the EU's European employment strategy.

This Act introduces several concepts previously unknown in Polish law. The first of these is the definition of a catalogue of employment service entities, public as well as private:

- the public employment services - the employment offices at county and regional (voivodship) level;
- the "volunteer labour corps"- an entity financed out of the state budget that works towards the objective of enabling young people to continue their education and to gain vocational skills;
- employment agencies - a category which includes labour placement agencies, personnel consultancies and temporary staffing agencies;
- training institutions - commercial entities that train unemployed people;
- social dialogue institutions;
- local partnership institutions (Article 6).

The Act defines the basic types of labour market services (labour market intermediation/placement; EURES services, career counselling and information; assistance with active job-seeking; and organization of training).

As compared with the old regulations governing labour market-related matters, this Act places more emphasis on "activation" than on welfare. A series of measures incorporated in the Act is addressed specifically to those groups within the population who are most threatened by unemployment: the youngest (aged below 25) and the oldest (over 50) participants in the labour market; long-term unemployed people (those without work for two years or more); unskilled people; lone parents of children aged up to seven; and people with disabilities.

Act provides a legal basis for the establishment by employers of self-financed training funds, expenditure from which can qualify for partial reimbursement from the public authorities. The Act also provides for 'monitored redundancy programs, which are mandatory for employers employing at least 100 people and contemplating collective redundancies. Under such a program, the employer collaborates with the labour office to provide the redundant employees with support in the area of training, career counselling and employment intermediation, and to assist them with active job-hunting.

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<sup>68</sup> Act of 20th April 2004 on employment promotion and labour market institutions;

<sup>69</sup> This Act supplants a 1994 Act regarding employment and counteracting unemployment and a 2001 Act on facilitating the employment of school leavers.

An important change made by the new law is the elaboration of rules governing the registration of employment agencies, and also the institution of a duty whereby people engaging in professional labour market intermediation and advice must obtain a licence issued by the minister charged with labour affairs.

The role and the duties of the social partners in their capacity as a legislatively designated “institution” of the labour market, and also the relevance of social dialogue for employment promotion, are defined in Chapter VIII of the new legislative Act regarding promotion of employment and labour market institutions. The underlying premise of the Act is that labour market policies are pursued by the government in cooperation with the social partners; the platforms for such cooperation are presented in the National Employment Council and in the regional employment councils, which have the status of review and advisory bodies. The trade unions and the employers' associations join the public employment services in the provision of EURES services. Cooperation between the public authorities and the social partners with respect to fostering employment can also assume the form of initiatives at the county and regional levels. Local authorities may also commission the social partners to perform tasks relating to employment promotion and to vocational activation of unemployed people. Duly empowered entities may also approach the authorities with initiatives of their own.

In July 2013, proposed changes to the 2004 Act on Promoting Employment and Labour Market Institutions were presented by the government for consultation with social partners. The reforms include several new measures and instruments financed from the labour fund. One proposal is an efficiency-based system of financing the work of local employment agencies, awarding their employees and management resources depending on how successful they are in helping the unemployed back into work. A further suggested change is to profile the unemployed and divide them into three categories: the “active unemployed” with adequate skills, to be offered basic help to find jobs; the “unemployed requiring support”, to be offered the full range of employment services, including traineeships; the unemployed ‘distanced from the labour market’, including people at risk of social exclusion, or those avoiding legal employment and registering as unemployed to obtain healthcare insurance.

This last group would be offered multifaceted help to find work, using the services of private employment agencies, non-governmental organizations and joint programs put together by public employment agencies and social welfare centres.

### **ILO Convention 181**

Poland has officially ratified the ILO Convention 181 on private employment agencies on September 15th 2008. It is the 21st country that has done so. Convention 181 replaces the Fee-Charging Employment Agencies Convention of 1949 (No. 96), effectively abandoning the ILO's restrictive or prohibitive policy toward private employment agencies and encouraging the effective operation of services provided by private employment agencies, and especially temporary work agencies.

Partnerships between employment services in Poland was “strongly connected to the political and economic transition of the country, and especially to the administration reform of 1998

which made PES subordinate to local governments and regional authorities, and no longer to the Ministry of Labour” (Fuller, 2011; p. 39). PES and PRES not only exchange databases on jobseekers, but also jointly organize job fairs and exchange hard-to-fill vacancies.

Representatives of employer organizations,<sup>70</sup> questioned the limited scope for cooperation between public and private employment agencies in the proposed reforms, and warned against the danger of increasing bureaucratic burdens on public employment services. More generally, the three union federations NSZZ Solidarność, OPZZ and FZZ proposed that control over the labour fund should be transferred to a new tripartite institution, to be known as the Social Dialogue Council. Unions have been proposing that this should replace the current Tripartite Commission for Social and Economic Affairs, boycotted by the unions since June 2013 in protest at the lack of social dialogue with the Polish government.<sup>71</sup>

## United Kingdom

Private employment agencies have been more significant in UK than in most other European countries.<sup>72</sup> The need for private employment agencies arose from information imperfection in labour markets, leading to high transaction costs and difficulties in matching demand and supply. „Private agencies typically have more experience in placing highly skilled and professional workers“ (Arellano et al., 2008).

The recruitment industry and the rules, regulations and working practices that govern it, are constantly evolving and moving forward. Developments in legislation and case law have effect on recruitment businesses.<sup>73</sup>

### The Employment Rights Act 1996

United Kingdom Act of Parliament is passed by the Conservative government to codify the existing law on individual rights in UK labour law. Previous statutes, dating from the Contracts of Employment Act 1963, included the Redundancy Payments Act 1965, the Employment Protection Act 1975 and the Wages Act 1986.

This act deals with rights that most employees can get when they work, including unfair dismissal, reasonable notice before dismissal, time off rights for parenting, redundancy and more. It was amended substantially by the Labour government since 1997, to include the right to request flexible working time.

### The Employment Agencies Act 1973<sup>74</sup>

The major piece of legislation which regulates agency practices in UK is the Employment Agencies Act 1973. The Employment Agencies Act 1973 is a United Kingdom Act of Parliament

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<sup>70</sup> Polish Confederation of Private Employers Lewiatan and the Employers of Poland;

<sup>71</sup> <http://eurofound.europa.eu/observatories/eurwork/articles/other/reform-of-employment-services-in-pipeline>

<sup>72</sup> <http://www.iiese.edu/research/pdfs/DI-0744-E.pdf>; Available at: December 2014;

<sup>73</sup> <https://www.rec.uk.com/legal-resources/legal-news/>; Available at: December 2014;

<sup>74</sup> Act to regulate employment agencies and businesses; and for connected purposes;

and part of a wider body of UK agency worker law. It regulates the conduct of employment agencies which recruit and manage temporary and permanent labour. It applies to approximately 17,000 employment agencies operating in the UK. It prohibits most agencies charging upfront fees, makes it an offence to put out misleading advertising for jobs which do not exist, sets standards for assessing an employee's experience, and more. In its original form, the Act provided for a system of licensing. Each business which wanted to set up an employment agency was required to have a license which would be denied or revoked if set standards on fee-charging, advertising, and information. The Act came at the same time as similar reforms around Europe. Regulations prescribing further detailed rules were implemented in 1976.

This Act contains sections about the Employment agencies and business to be licensed, Grant of licenses, Revocation of licences, Appeals, General regulations<sup>75</sup>, Restriction on charging persons seeking employment, Display of licences, Annual reports and information, Inspection, Fraudulent applications and entries, Offences by bodies corporate, Regulations and orders. In this act, conduct of employment agencies and employment businesses is defined in General regulations<sup>76</sup> :

- *“employment” includes*—(a)employment by way of a professional engagement or otherwise under a contract for services; (b)the reception in a private household of a person under an arrangement whereby that person is to assist in the domestic work of the household in consideration of receiving hospitality and pocket money or hospitality only;
- *“employment agency” means* „the business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) of providing services (whether by the provision of information or otherwise) for the purpose of finding workers employment with employers or of supplying employers with workers for employment by them“.
- *“employment business” means* the business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) of supplying persons in the employment of the person carrying on the business, to act for, and under the control of, other persons in any capacity.

## Deregulation and Contracting Out Act 1994

The Deregulation and Contracting Out Act 1994 is an Act of the Parliament of the United Kingdom. It introduced wide ranging measures aiming to cut government expenditure and bureaucracy. An example is the abolition of the licensing system for employment agencies under the Employment Agencies Act 1973. The Act was largely repealed and replaced by the Regulatory Reform Act 2001.

In 1994, the Deregulation and Contracting Out Act 1994 abolished the system of licenses. Instead, enforcement of regulations would rely on the Employment Agency Standards

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<sup>75</sup> General regulations secure the proper conduct of employment agencies and employment businesses and the protection the interests of persons availing themselves of the services of such agencies and businesses, and such regulations may in particular make provision. It's restricting the services which may be provided by persons carrying on such agencies and businesses, regulating the way in which and the terms on which services may be provided by persons carrying on such agencies and businesses and restricting or regulating the charging of fees by persons carrying on such agencies and businesses;

<sup>76</sup> <http://www.legislation.gov.uk/ukpga/1973/35>; Available at: December 2014;



Inspectorate.<sup>77</sup> In 2003 new Regulations were introduced, replacing those from 1976. The Conduct of Employment Agencies and Employment Businesses Regulations 2003 prohibit the charging of fees, except in a small number of mostly arts related professions (e.g. modelling). The additions made in 2003 were few, primarily relating to confidentiality of information and candidate qualification checks.

## **Regulatory Reform Act 2001**

The Regulatory Reform Act 2001 replaced the Deregulation and Contracting Out Act 1994. It removed some of the constraints on Deregulation Orders under the 1994 Act by providing wider powers for government ministers to make a Regulatory Reform Order by statutory instrument. The Act has been largely replaced Legislative and Regulatory Reform Act 2006. The Act expands the range of ministerial order-making powers, allowing orders to be made in a wider range of circumstances, more quickly and efficiently, with less consultation and scrutiny.

## **Conduct of Employment Agencies and Employment Businesses Regulation 2003**

Supporting the Act are The Conduct of Employment Agencies and Employment Businesses Regulations 2003. These regulations restrict agencies from: selling other services, sending workers to employers as strike breakers, sharing the agency worker's personal details, advertising jobs which do not exist, withholding pay from workers, regardless of whether they have timesheets, charging any fees directly to a worker for their work require agencies to document the health and safety standards of employers they send workers to require agencies to give a written statement of the pay and hours they will have, and state their contractual status.

In reality these requirements are not enforced, because there are minimal resources devoted to oversight. Regulation enforcement relies on individual workers bringing claims. The Employment Agency Standards Inspectorate has 15 inspectors and 4 call centre staff. This was increased by twelve inspectors after the Employment Act 2008.

There is a difference between employment agencies and businesses:

- *Employment agencies* (Employment agencies find work for work-seekers who are employed and paid by employers. This is often called 'permanent employment' because once the worker has been taken on, they're an employee of the company they're working for. However, different rules apply to entertainment and modelling);
- *Employment businesses* (Employment businesses engages a work-seeker under a contract who then works under the supervision of someone else. This is normally called 'temporary agency work' or 'temping'. Workers under these arrangements are paid by the business instead of the company they're supplied to. When a business does both it has to follow the rules for both employment agencies and employment businesses).

"Work-finding services" means services (whether by the provision of information or otherwise) provided: by an agency to a person for the purpose of finding that person employment or

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<sup>77</sup> The Employment Agency Standards Inspectorate is a division of the Employment Relations Directorate, part of the Department for Business, Enterprise and Regulatory Reform, which is meant to oversee employment agencies operating in the United Kingdom. It takes complaints and investigates breaches of the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Businesses Regulations 2003.

seeking to find that person employment; by an employment business to an employee of the employment business for the purpose of finding or seeking to find another person, with a view to the employee acting for and under the control of that other person; by an employment business to a person (the “first person”) for the purpose of finding or seeking to find another person (the “second person”), with a view to the first person becoming employed by the employment business and acting for and under the control of the second person.<sup>78</sup> “Work-seeker” means a person to whom an agency or employment business provides or holds itself out as being capable of providing work-finding services.

In the UK, private providers selected through tendering procedures are only bound to deliver specific outcomes (job placements) and are left free to offer whatever services they believe to be most effective to individuals without government prescription (so called ‘black box’ approach) (Naldini, 2011; p.11). For running an employment agency or employment businesses in UK there are certain rules. It's forbidden to: charge a fee to a work-seeker for work finding services, stop someone from working elsewhere or terminating their contract with you, make someone tell them the name of any future employer, withhold payments or wages due, supply a temporary worker to replace someone taking part in industrial action, charge for a uniform without telling the worker in advance, make unlawful deductions from pay.

It's necessary to make sure workers are: paid for all the work they do, paid holiday, not forced to work longer than 48 hours a week, paid at least the National Minimum Wage, protected under health and safety laws, given written terms of employment. The rules are different for entertainment and modelling agencies and businesses.<sup>79</sup>

The rules on employment agencies and businesses don't apply to university appointment boards or services and certain other educational institutions, local councils, trade unions, employers' organisations and certain professional members' bodies, charities and certain services provided just for ex-members of HM forces or for people released from prisons and other institutions.<sup>80</sup> If you run a publication or website totally or mostly aimed at providing a work-finding service you'll normally have to follow the rules for employment agencies and businesses. However, if job advertisements are only a small part of what is published then the rules probably don't apply.

Some employment agencies need a licence if they are supplying specific types of workers. Agencies need to be licensed by the Gangmasters Licensing Authority (GLA) if they provide workers for: agriculture, horticulture, shellfish gathering, forestry, food processing and packaging. Nursing and domiciliary care agencies in England may need to register with the Care Quality Commission (CQC) and in Wales may need to register with the Care and Social Services Inspectorate Wales. Nursing agencies in Northern Ireland may need to register with the Regulation and Quality Improvement Authority. Domiciliary care agencies in Northern Ireland may also need to register with the Regulation and Quality Improvement Authority. Nursing agencies in Scotland may need to register with Social Care and Social Work Improvement for Scotland (SCSWIS).

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<sup>78</sup> <http://www.legislation.gov.uk/uksi/2003/3319/made>; Available at: December 2014;

<sup>79</sup> <https://www.gov.uk/employment-agencies-and-businesses/overview>; Available at: December 2014;

<sup>80</sup> Ibid.

# The Netherlands

## Active Legal Framework

For over a decade, The Netherlands had one of the lowest unemployment rates in Europe. In 2012, however, the economy started to decline. It did not grow in 2012 and is not expected to do so in 2013. This has led to rapidly rising unemployment and a downward adjustment of people's living standards. The latter are also affected by the costs associated with the ageing of the labour force and the population, low fertility rates, and the rising dependency ratio. As elsewhere, the slowdown of the economy has moved the debate on labour market flexibility higher up on the political agenda. Yet on many accounts, the Netherlands already has a flexible labour market. For instance, the PRES penetration rate is well above the European average. In addition, the country has by far the highest share of part-time workers (and the lowest average number of hours worked) in Europe. Half of all jobs in the Netherlands are part-time jobs.<sup>81</sup> The Netherlands has a considerable number of people on flexible contracts. The Dutch government agency UWV that closely follows Dutch labour market indicators has noted a long-term increase in the number of people in the 'flexible layer' (that includes workers on fixed-term contracts, agency workers and the self-employed).

Dutch labour law is not codified in a so-called labour code. Important to Dutch labour law are international sources, such as the ILO Conventions, the European Social Charter, the EEC Treaty, EEC directives and regulations, the Constitution, Acts of Parliament and delegated rules, collective agreements, works council's arrangements, the individual contract of employment, work rules and regulations within the enterprise, rules unilaterally imposed by the employer, custom and case law.

The individual employment relationship is governed by elements derived from civil law and public law. Basically, Dutch law is composed of so-called autonomous law and heteronomous law, whereby heteronomous law, mostly statutory law, lays down a minimum level, while autonomous law, for example collective labour agreements, may create extra and supplementary rights. The Minister of Social Affairs and Employment is responsible for the issues dealt with by the International Labour Organization (ILO) in Geneva, Switzerland. The ILO formulates international labour standards in the form of Conventions and Recommendations setting minimum standards of basic labour rights.

The Netherlands has ratified 105 ILO Conventions, making it a leader among the ratifying nations. The ILO has a unique tripartite structure with workers and employers participating as equal partners with governments in the work of its governing organs. To ensure the promotion of decent work for all, the ILO has formulated the following strategic objectives (the Decent Work Agenda)<sup>82</sup>:

- Promote and realize standards and fundamental principles and rights at;
- Create greater opportunities for women and men to secure decent employment and income;
- Enhance the coverage and effectiveness of social protection for all;

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<sup>81</sup> International Labour Office Geneva, (2013). Private employment agencies in the Netherlands, Spain and Sweden

<sup>82</sup> <http://library.fes.de/pdf-files/gurn/00326.pdf>; Available at: December 2014;

- Strengthen tripartism and social dialogue.

Most issues mentioned in the new ILO Convention 181 such as the protection of discrimination, special protection for migrant workers, the prohibition of child labour, the freedom of association, collective bargaining, the minimum wage, etc., are not explicitly laid down in new bills. The Dutch government is in fact convinced that all of these subjects are properly regulated in other sources of Dutch labour law. Other relevant provisions which are kept outside the bill are: the Act on Privacy, the Works Councils Act (giving works councils the right to be informed and consulted on the employment of temporary workers) and various collective agreements which contain provisions limiting the use of temporary workers.

Employees are usually recruited through advertisements, through an intermediary like the public Work and Income Agency (Centrum voor Werk en Inkomen), or private recruitment agencies. The services of the Work and Income Agency are free of charge for both employer and employee. These services include information on wages and labour conditions in specific industries. The Work and Income Agency has about 150 regional offices<sup>83</sup>.

### Private employment agencies

As an alternative to systems of certification or licensing, Article 3, paragraph 2, of Convention No. 181 allows for appropriate national law and practice to regulate or determine the conditions governing the operations of private employment agencies. Through this alternative, the Convention provides discretion to governments on how to regulate private employment agencies (PRES).<sup>84</sup> This allows countries that already had a regulatory system other than licensing and certification in place prior to ratifying Convention No. 181 to retain these systems. Nevertheless, it remains crucial that legal provisions or national practices governing private agencies are properly and permanently enforced. For this, the legal provisions must be impartial, transparent and able to assist private agencies to deliver their services appropriately and adequately.

PRES have been active in the Netherlands for over 50 years.<sup>85</sup> They are a widely accepted part of the labour market. On the whole, this labour market has become more flexible. The thickness of the “flexible layer” has expanded, partly as a result of new legislation. PRES see their share of the market threatened by “new” and upcoming formulas such as “pay-rolling” and contracting. Rogue agencies are a persistent problem that is being taken very seriously by law enforcement.

In the Netherlands, the requirement for employment agencies to hold a licence has been abolished and the temporary employment sector has since opted for a form of self-regulation by introducing a private system of certification supervised by the sector itself. Now, temporary work agencies are registered by the Dutch Labour Standards Foundation (SNA)<sup>86</sup>, but operate in accordance with a national code of conduct that is based partly on collective bargaining agreements. The compliance of these codes with national requirements is mainly controlled by the Foundation for Compliance with Collective Agreements in the Temporary Employment

<sup>83</sup> <http://www.regionallabourmarketmonitoring.net/>; Available at: December 2014;

<sup>84</sup> International Labour Office, (2007). Guide to Private Employment Agencies – Regulation, Monitoring and Enforcement.

<sup>85</sup> International Labour Office Geneva, (2013). Private employment agencies in the Netherlands, Spain and Sweden.

<sup>86</sup> Ibid.

Sector (SNCU), a private organization of the social partners in the employment agencies sector. These standards relate mainly to the payment of taxes, social insurance contributions and the minimum wage. To ensure compliance with these standards, certificate holders are inspected twice a year by certifying institutions that have been designated by the Council for Accreditation. The Dutch Labour Inspectorate concentrates on the inspection of uncertified temporary agencies, especially in sectors with a high risk of non-compliance. The Netherlands Trade Union Confederation (FNCV) observes that the high number of mala fide private employment agencies in the Netherlands can only be effectively eliminated through a system permits.<sup>87</sup> An example for an international code of conduct is the “Ciett members’ commitment towards a well-functioning international labour market” of the International Confederation of Private Employment Agencies (Ciett) which, founded in 1967, consists of 37 national federations of private employment agencies and six of the largest staffing companies worldwide. Ciett expresses its members’ commitment to cooperation with the public employment services. In the code of conduct, Ciett also fully endorses Convention No. 181 and “supports its members in encouraging their respective countries to ratify this ILO instrument, in case they have not done so”<sup>88</sup>.

The Government of the Netherlands reports that most of the regional offices of the public Centres for Work and Income (CWI) also include a representative from one or more private agencies, and that the public employment service agencies facilitate access to information concerning temporary contracts on behalf of a user enterprise. Furthermore, temporary work agencies are partly located on the central floor on the public employment services, where some 33 mobility centres have become operational since the onset of the global economic crisis.<sup>89</sup> These centres aim to bring together the regional network in the field of employment, income and training in a joint effort with private temporary work agencies. Convention 96 was not done away with until 1997, when the ILO adopted Convention 181 on private employment agencies and thereby opened the door to private temp work agencies.

## Cooperation between PES and PRES

In the Netherlands, contacts between the public employment service UWV and PRES have become closer, partly because of cuts in the public budget that reduced the resources available to the public employment service. Due to these budget cuts, it is increasingly difficult for that service to give job seekers much personal attention. Most contacts with jobseekers take place electronically.<sup>90</sup> Cooperation between PRES and the public employment service goes back to the 1980s. Until 2008, this collaboration was mainly restricted to certain target groups and to situations of mass dismissal or restructuring (establishment of private mobility centres). Today, however, public private cooperation “is quite fully anchored in Dutch labour market policy and administration” (Voss 2013 p.94). Private employment agencies are located at the central floor of the “Work plaza” (werkplein) where they help people trying to find a job. Persons who

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<sup>87</sup> Kea Tijdens et al., (2006). Temporary Agency Work in the Netherlands. Available at: [http://www.uva-aias.net/uploaded\\_files/publications/WP54.pdf](http://www.uva-aias.net/uploaded_files/publications/WP54.pdf)

<sup>88</sup> C181 - Private Employment Agencies Convention, 1997 (No. 181); Available at: [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312326](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312326); Available at: December 2014

<sup>89</sup> Kea Tijdens et al., (2006). Temporary Agency Work in the Netherlands. Available at: [http://www.uva-aias.net/uploaded\\_files/publications/WP54.pdf](http://www.uva-aias.net/uploaded_files/publications/WP54.pdf); December 2014;

<sup>90</sup> [http://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); Available at December 2014;

become unemployed no longer need to present themselves in person at the public employment service but they must show that they have been registered at a PRES.

In the Netherlands, there is nothing unusual about the social partners working together in areas of common interest. Their involvement is widely seen as contributing to economic and social stability. Labour relations are comparatively stable (but the country has seen and continues to see its share of industrial action). Employers and workers organizations representatives meet frequently at national and sector level. Together, they meet with Government to discuss both labour market and broader economic issues. A typical feature of the Dutch model of consultation and consensus-seeking is the Collective Labour Agreement (CAO-collective arbeids overeenkomst) and its mandatory extension beyond the original parties to the negotiation. The Netherlands is often cited as an example of a country that successfully managed to create a framework for combining flexibility and security in the labour market.

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