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Ad-Hoc Query

2024.47 Employment and recruitment agencies

European Migration Network
Ad-hoc query

AD-HOC QUERY ON 2024.47 EMPLOYMENT AND RECRUITMENT AGENCIES

REQUESTED BY EMN NCP POLAND ON 13 AUGUST 2024

Responses from: EMN NCP Austria, EMN NCP Belgium, EMN NCP Bulgaria, EMN NCP Cyprus, EMN NCP Czech Republic, EMN NCP Estonia, EMN NCP Finland, EMN NCP France, EMN NCP Germany, EMN NCP Greece, EMN NCP Hungary, EMN NCP Ireland, EMN NCP Italy, EMN NCP Latvia, EMN NCP Lithuania, EMN NCP Luxembourg, EMN NCP Netherlands, EMN NCP Poland, EMN NCP Portugal, EMN NCP Slovakia, EMN NCP Slovenia, EMN NCP Spain, EMN NCP Sweden **(23 in total)**

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN National Contact Points (NCPs) in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN Country.

BACKGROUND INFORMATION

Poland is currently working on developing a state migration policy. As part of preparing a diagnosis of the migration situation, we are analysing, among other things, issues related to legal migration and methods of employing migrants in Poland by employment and recruitment agencies as one of the important elements of the system. We would like to learn how other countries deal with potential abuses by these agencies and what regulations exist in the Member States in this area.

Seeing that works on the state migration policy is ongoing the chair of the AHQWG authorized the deadline of 5 weeks for this query.

WE WOULD LIKE TO ASK THE FOLLOWING QUESTIONS:

We would very much appreciate your responses by **17 September 2024**.

1. Does the legislation of your Member State allows that employment agencies hired third-country nationals on behalf of their clients? YES/NO.
2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?

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3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?

4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.

RESPONSES

		Wider Dissemination?	
	EMN NCP Austria	Yes	<p>Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>Yes, it is generally possible to use an employment agency. However, the employment contract must in any case be concluded between the (direct) employer and the third-country national (see also answer to Q.4).</p> <p>---</p> <p>Source: Ministry of the Interior</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>In Austria, employment services are permitted on the basis of the Labour Market Promotion Act and the Trade, Commerce and Industry Regulation Act.</p> <p>---</p> <p>Source: Ministry of the Interior</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>Since employment services are a non-regulated ("free") trade, private employment agencies are monitored by the</p>

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			<p>trade authorities. (https://www.bmaw.gv.at/Themen/Arbeitsmarkt/Arbeitsmarktpolitik/Arbeitssuche.html).</p> <p>---</p> <p>Source: Ministry of the Interior</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>Yes, on the one hand, the Act Governing the Employment of Foreign Nationals (AuslBG), which regulates the employment of foreign nationals in Austria, must be complied with. The application for labour market admission will be rejected if, among other things, the third-country worker is not employed by the employer in their own company but is made available to third parties (Art. 4 para. 1 subpara. 7 AuslBG) or if the employment contract was concluded on the basis of an unauthorized employment placement in accordance with the Labour Market Promotion Act and the employer knew or should have known this (Art. 4 para. 1 subpara. 6 AuslBG).</p> <p>On the other hand, the Labour Market Promotion Act contains principles for placement (Art. 3 and 5), such as:</p> <ul style="list-style-type: none"> • Voluntary utilization of employment services • No obligation to accept an offered job • Impartiality of the employment agency • No charge for job placement for jobseekers (with the exception of artists and athletes) <p>---</p> <p>Source: Ministry of the Interior</p>
	EMN NCP Belgium	Yes	<p>1. Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p>

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			<p>Yes.</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>In Belgium, access to the labour market is a regional competence. In each region, the legislation on the employment of foreign workers does not exclude employees hired by employment or recruitment agencies. More specifically:</p> <p>Walloon Region: Article 1.9° of the Decree of the Walloon Government of 6 June 2024 related to access to employment for foreign workers specifies the provisions foresee in the decree also apply to work contracts concluded between employees and employment agencies.</p> <p>Flemish Region: Article 12, §1, 5° of the Decree of the Flemish Government of 7 December 2018 specifies that if the entity who acts in the name and on behalf of the employer (for example, employment agencies), does not comply with the legal obligations regarding private employment agencies, as stated in Chapter 2 of the Decree of 10 December 2010 on private employment agencies, the application file will be declined (this provision entered into force on 1 May 2024).</p> <p>Brussels-Capital Region: Article 6.14° of the Ordinance of 14 July 2001 on the mixed management of the employment market in the Brussels-Capital Region provides that employment agencies are under the obligation not to provide services to foreign workers who do not comply with the provisions governing their professional activity;</p> <p>German-speaking Community: Article 11.1° of the Decree of 11 May 2009 on the authorisation of temporary employment agencies and the supervision of private employment agencies specifies that private employment agencies must abide by the law of 30 April 1999 on the employment of foreign workers.</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>Employment agencies must go through an official accreditation process by the authority of the region in which they wish to operate. Each region has regulations on employment agencies which detail the conditions under which they are allowed to operate. More specifically:</p> <p>Walloon Region: agencies must register with the regional administration and receive an accreditation that is valid 2 years. The regional employment inspectors monitor both private employment agencies operating in the Brussels-</p>
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			<p>Capital Region and companies using the services of these agencies. Anyone who commits an offence may be fined or even sentenced to imprisonment. Private employment agencies must send an annual activity report. This is in application of the Decree of 3 April 2009 on the registering or accreditation of employment agencies.</p> <p>In the Flemish Region: agencies must register with the regional administration and receive an accreditation that is unlimited in time. Administrative sanctions are foreseen in the case of non-compliance with the rules set out in the Decree of 10 December 2010 on private employment agencies.</p> <p>In the Brussels-Capital Region: agencies must register with the regional administration and receive an accreditation that is valid 2 years. The regional employment inspectors monitor both private employment agencies operating in the Brussels-Capital Region and companies using the services of these agencies. Anyone who commits an offence may be fined or even sentenced to imprisonment. Private employment agencies must send an annual activity report. This is in application of the Ordinance of 14 July 2011 on the mixed management of the labour market in the Brussels-Capital Region.</p> <p>In the German-speaking Community: agencies must register with the regional administration and receive an accreditation that is unlimited in time. The regional employment inspectors monitor both private employment agencies operating in the Brussels-Capital Region and companies using the services of these agencies. Anyone who commits an offence may be fined or even sentenced to imprisonment. Private employment agencies must send an annual activity report. This is in application of the Decree of 11 May 2009 on the accreditation of temporary employment agencies and the supervision of private placement agencies.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>Yes, the applicable regional regulations are included in Q3.</p>
	EMN NCP Bulgaria	Yes	<p>1. Does the legislation of your Member State allows that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>Yes</p>

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			<p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>The Law on Employment Promotion (LEP) regulates the public relations concerning the mediation in providing information and placement in the Republic of Bulgaria and in other countries of Bulgarian citizens, of citizens of other EU Member States, of states – parties to the European Economic Area Agreement of Swiss Confederation. According to Art. 17, para 2, point 3 of the LEP the mediation in placement is available for the employers. The mediation services are provided according to the provisions of the Section I of the LEP.</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>The Minister of Labour and Social Policy shall exercise an overall control of the observance of the LEP, as well as of the other statutory instruments in the sphere of employment and unemployment. (Art. 75, para 1 of the LEP). The specialised control activity shall be carried out by the Executive Agency “General Labour Inspectorate” with the Minister of Labour and Social Policy.</p> <p>The Employment Agency keeps and maintains a unified electronic centralized register of individuals and legal entities carrying out intermediary activity and/or providing temporary work. (Art. 25a of the LEP).</p> <p>For the registration to perform employment mediation activity may apply natural and/or legal persons under the conditions provided in Art. 27a of the LEP.</p> <p>According to the Art. 28, para 8 of the LEP, the Council of Ministers shall determine with an ordinance the conditions and the order for implementing of mediation activity in relation to placement; the conditions and the order for registration of the persons for implementing of mediation activity and for refusing and terminating it, etc.</p> <p>The Ordinance on the Conditions and Procedure of Carrying out Employment Mediation settles the conditions and the order of carrying out employment mediation for hiring in the Republic of Bulgaria, in other countries, and of sailors, the registration for carrying out employment mediation, its refusal and withdrawal, the conditions and procedure for the temporary or one-off provision of employment mediation services in the Republic of Bulgaria, as well as the obligatory requirements for the contents of the mediation contracts.</p>
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			<p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>No</p>
 EMN NCP Cyprus	Yes		<p>1. Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>In Cyprus the establishment and operation of Private Employment Agencies (PrEA) is regulated by the Private Employment Agency Laws 2012-2023. For more information regarding the provisions of the Law, eligibility criteria and other requirements needed for the establishment of a PrEA in Cyprus, please visit the Labour Department's website at PREA LICENSE.</p> <p>Please note that the specific Law covers only PrEAs which provide mediation services and does not apply to Temporary Agency Work (TAW) . It is noted that TAW is dealing ONLY with EU citizens. For more information regarding the provisions of the TAW Law 2012, eligibility criteria and other requirements needed for the establishment of a TAW in Cyprus, please visit the Labour Department's website at TAW LAW.</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>N/A</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>N/A</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p>

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			N/A
	EMN NCP Czech Republic	Yes	<p>1. Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>Yes. Czech legislation generally allows third-country nationals to be employed as agency workers in the Czech Republic. Pursuant to Regulation No 374/2017 Coll., the employment agency for foreigners cannot arrange employment in the form of a temporary assignment to perform work for a user for underground work in underground mines or for types of work for which a lower level of education than secondary education with a matriculation examination is sufficient, with the exception of the types of work listed in the Annex to this Regulation. Certain restrictions on the employment (and thus temporary assignment of third-country nationals to the user) may be represented by certain measures enshrined in Act No.326/1999 Coll., on the Residence of Foreigners, and the Government Regulation No. 220/2019 Coll. setting annual quotas on the admission of migrant workers from selected third countries. (Quotas are set in favour of companies and entrepreneurs that employ migrant workers directly and that participate in government labour migration programs from which employment agencies temporarily assigning workers to users are excluded).</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>Section 14 and Section 16, and subsequently Section 58 to Section 66 of Act No. 435/2004 Coll., on Employment, as amended (hereinafter referred to as the Employment Act), constitute the core of the legal regulation of employment mediation by employment agencies. However, this law in its current form does not explicitly regulate intermediary activities in relation to citizens of so-called third countries. The area in question is further regulated by Act 262/2006 Coll., the Labour Code and the aforementioned Act on the Residence of Foreigners.</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p>

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			<p>In the Czech Republic, the inspection of the protection of labour relations and working conditions, i.e. also the inspection of the activities of labour agencies, is entrusted to the labour inspection authorities on the basis of Act No.251/2005 on Labour Inspection. Furthermore, it is the Ministry of Labour and Social Affairs that issues and refuses employment agency permits and keeps records of employment agencies</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>Yes, see our answers to previous questions.</p>
	<p>EMN NCP Estonia</p>	<p>Yes</p>	<p>1. Does the legislation of your Member State allows that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>Yes.</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>In Estonia the TCN employment is regulated by the Aliens Act. Aliens Act § 106 (7) and § 1761 (1) states that short-term employment in Estonia of a TCN may be registered or temporary residence permit for employment may be issued also in the case of temporary agency work in the user undertaking for the purposes of subsection 5 of § 6 of the Employment Contracts Act. Temporary agency work may be registered as short-term employment or temporary residence permit for employment may be issued if:</p> <ul style="list-style-type: none"> the employer is a company registered in Estonia or another MS of the EEA; the employer is acting as an intermediary of temporary agency work and the employer has provided security to the extent of at least one month's remuneration of TCN. <p>The employer may choose one of the following types of security: guarantee or deposit. The guarantor may be an insurer or credit institution located in Estonia or another MS of the EEA. The security must be valid for the entire period of short-term employment or validity of temporary residence permit.</p>

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			<p>Intermediation of temporary agency work by an undertaking is also regulated in the Labour Market Measures Act. According to Labour Market Measures Act § 26 an undertaking submits a notice of economic activities in accordance with the rules provided in the General Part of the Economic Activities Code Act prior to commencement of economic activities if the undertaking enters into an employment contract with a person to send the person for temporary agency work for the purposes of subsection 5 of § 6 of the Employment Contracts Act (intermediation of temporary agency work). An undertaking engaged in intermediation of temporary agency work may not charge a fee from an employee for sending the employee for temporary agency work.</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>The Labor Inspectorate carries out state supervision over private employment agencies and can ban the economic activity of the employment agency if it has detected a significant violation (e.g. violation of the prohibition on demanding fees). The Labor Inspectorate can also make injunctions, for example, if a company engaged in employment mediation has not submitted an economic activity report or if there are incorrect data in the economic activity register. The Police and Border Guard Board, Estonian Internal Security Service and the Estonian Unemployment Insurance Fund have, according to their competence, the right to perform supervisory functions of the facts regarding the temporary stay, residence and employment in Estonia of a TCN.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>Yes.</p> <p>Abovementioned requirements are set for the temporary agency work to prevent misuse. In addition, all employers, who are hiring TCNs according to the Aliens Act, must:</p> <ul style="list-style-type: none">pay the TCN remuneration that is at least equal to the annual average gross salary in Estonia (a general requirement, there are exceptions) andif the TCN applies for a residence permit, employer must seek permission from the Estonian Unemployment Insurance Fund to recruit the alien (a general requirement, there are exceptions).
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+	EMN NCP Finland	Yes	<p>1. Does the legislation of your Member State allows that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>YES (understood in the sense that employment agencies find suitable third-country national workers and handle the recruitment process based on the client company's needs, and the workers are then employed by the client company)</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>There is no specific provision regarding third-country nationals, but the Act on Public Employment Services (916/2012, available in Finnish/Swedish) lays down the rules for employment services offered by private agencies.</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>The Ministry of Economic Affairs and Employment has the right to gather data on private employment agencies for supervisory purposes.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>According to law, private employment agencies shall abide by principles such as equal treatment of job applicants and not charging the recruitment costs on the applicant.</p>
■ ■	EMN NCP France	Yes	<p>1. Does the legislation of your Member State allows that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>YES</p>

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			<p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>The French Labor Code (articles L.1251-1 et seq.) sets out the terms and conditions governing the recruitment of employees by temporary employment agencies (Entreprises de Travail Temporaire - ETTs), in order to place them at the disposal of a user company. Article L.1251-1 defines the activity of ETTs, stipulating that their sole activity is to provide temporary employees to user companies to meet their needs, within the framework of temporary assignments.</p> <p>Although these articles do not explicitly mention third-country nationals, the provisions apply to all employees, whatever their nationality. Foreign nationals must be legally resident in France, i.e. they must hold a valid residence permit and a work permit entitling them to work throughout the country (articles L.5221-2 et seq. and articles R5221-1 to R5221-7 of the French Labor Code).</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>In France, companies are monitored by the Labour Inspectorate, which ensures compliance with regulations on employment, working conditions and workers' rights, whatever their nationality. It carries out regular checks to ensure that companies (whatever their activity) comply with current legislation.</p> <p>Labour inspectors have investigative powers which enable them to :</p> <ul style="list-style-type: none">Enter and visit the company;Entering premises used for worker accommodation;Conduct an investigation, including interviewing employees and requesting documents ;Take samples of products distributed or used;As part of the fight against undeclared work, ask anyone connected with the company to provide proof of identity and address;Use approved organizations to check the condition of premises and equipment[1] .
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			<p>Articles L.1251-45 to L.1251-48 of the French Labor Code lay down control rules for ETTs in France. These legal provisions aim to ensure that these companies operate in compliance with the law, by imposing obligations to declare, keep records, and communicate information to the competent authorities.</p> <p>Before commencing business, temporary employment agencies must declare their activity to the relevant authorities and provide proof of a financial guarantee (Article L.1251-45 of the French Labor Code). In accordance with Article L1251-47 of the French Labor Code, when a temporary employment agency operates without having made a declaration to the administrative authorities, or without having obtained a financial guarantee, the labour inspector or another supervisory officer may refer the matter to a court, which may order the company to close for a period not exceeding 2 months.[2]</p> <p>In accordance with article L1251-46, the ETT provides France Travail with a statement of assignment contracts, in particular to verify employees' entitlement to the replacement income provided for in article L. 5421-2. France Travail communicates the information to the administrative authority for the exercise of its control missions.</p> <p>In accordance with articles L1251-21 of the French Labor Code, for the duration of the assignment, the user company is responsible for the working conditions, as determined by the legal and contractual provisions applicable to the workplace. For the purposes of these provisions, working conditions are limited to those relating to working hours, night work, weekly rest periods and public holidays, health and safety at work, and the employment of women, children and young workers.</p> <p>Article L1251-22 stipulates that obligations relating to occupational medicine are the responsibility of the temporary employment agency. Where the user company has its own occupational health and prevention service, employees may be monitored by the latter, under an agreement with the temporary employment agency. When the activity carried out by the temporary employee requires reinforced medical supervision within the meaning of occupational health regulations, the corresponding obligations are the responsibility of the user company.</p> <p>The Labour Inspectorate can monitor compliance with these working conditions, and impose administrative or penal sanctions in the event of non-compliance. In a number of cases, it can summon a company to appear before a</p>
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			<p>court for summary proceedings, in order to put an end to serious situations: in the event of breaches of the provisions of the Labor Code relating to temporary work (art.L.1251-47 CT), Sunday rest (art.L.3132-31 and L.3134-15 CT), health and safety (art.L.4732-1, al.1, art.L.4732-2, art.L.4741-11 CT)[3] .</p> <p>[1] https://travail-emploi.gouv.fr/droit-du-travail/inspection-du-travail/article/les-missions-et-les-prerogatives-de-l-inspection-du-travail</p> <p>[2] https://travail-emploi.gouv.fr/droit-du-travail/les-contrats-de-travail/article/le-contrat-de-travail-temporaire</p> <p>[3] https://nouvelle-aquitaine.dreets.gouv.fr/Un-moyen-d-action-meconnu-de-l-Inspection-du-travail-le-refere-judiciaire</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>YES</p> <p>In accordance with article L5221-4 of the French Labor Code, subject to international agreements, a temporary employment agency is prohibited from hiring foreign workers if the service is provided outside French territory.</p>
	<p>EMN NCP Germany</p>	<p>Yes</p>	<p>1. Does the legislation of your Member State allows that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>It depends (see below answer Q.4).</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>Private employment agencies act as intermediaries between jobseekers and companies. They only get paid for their</p>

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			<p>services if they successfully place somebody into employment subject to social insurance coverage. Private employment agencies do not need a licence. They must only notify the trade office (Gewerbeamt in German) of their activities. Book III of the German Social Code (SGB III in German) regulates the activities of private recruiters (see sections 296 ff. of SGB III).</p> <p>In cases of cross-border placements, the private recruiter must inform the jobseeker in writing and at his own expense in the language of the jobseeker or in a language the jobseeker understands about the following before the conclusion of an employment contract:</p> <ul style="list-style-type: none">employer's name and address,the planned beginning and duration of the employment relationship,the place of employment, or, if the employee will not only work in one place, information that the employee can be deployed to different places,the work activity to be performed,the contractual working hours,the contractual remuneration, including any planned deductions,the contractual number of days of paid leave,the period of notice for the termination of the employment relationship,general reference to collective agreements, company or public service agreements applicable to the employment relationship, andthe option to use the social partners' counselling services and public counselling services; this information must at the minimum mention examples of the counselling services under section 23a of the Posted Workers Act (Arbeitnehmerentsendegesetz) and up-to-date contact details of these counselling services. <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>Jobseekers are allowed to commission private employment agencies of their choice to place them in employment. Using a private intermediary is voluntary. The remuneration for the services of private employment agencies is legally regulated in Section 296 SGB III. Only if the jobseeker is successfully placed in a position are they required to pay a fee which cannot be higher than 2.000,00 EUR.</p>
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			<p>As mentioned above, the private employment agencies require a business registration (see Q.2). However, if the costs for a successful placement in an employment relationship subject to social insurance contributions are to be covered by the Federal Employment Agency, an AZAV certification (Accreditation and Approval Ordinance for Employment Promotion) from the private employment agency is required.</p> <p>Such a certification is not issued by the Federal Employment Agency, but by expert bodies. The expert bodies are private companies that themselves require permission (accreditation) in order to be able to grant approval for providers and measures. The expert body checks whether the requirements for approval in accordance with Sections 176 ff. of the Third Book of the Social Security Code and the Accreditation and Approval Ordinance for Employment Promotion (AZAV) are met. Approval can be granted for a maximum of five years. This test assesses in particular the performance and reliability of a provider as well as its personnel and professional suitability. In addition, a quality assurance system is required.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>Under current law, the Federal Employment Agency may not give its approval to a temporary residence permit for the purpose of employment if the foreigner wishes to work as a temporary agency worker. This means that temporary agency work is currently only possible for third-country nationals if they are allowed to work without the approval of the Federal Employment Agency (e.g. EU Blue Card, permanent settlement permit, people entitled to political asylum, recognised refugees, beneficiaries of subsidiary protection).</p> <p>There are considerations to create a regulation according to which immigration of foreign workers into temporary work is permitted, provided that the conditions for temporary work (e.g. "equal pay", a minimum employment period of 12 months) are complied with.</p>
	EMN NCP Greece	Yes	<p>1. Does the legislation of your Member State allows that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>NO</p>

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			<p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>-</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>-</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>-</p>
	<p>EMN NCP Hungary</p>	<p>Yes</p>	<p>1. Does the legislation of your Member State allows that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>No Such agencies can only hire third-country nationals on their own behalf and responsibility.</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>N/A</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>N/A</p>

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			<p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>N/A</p>
	<p>EMN NCP Ireland</p>	<p>Yes</p>	<p>1. Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>Yes</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>The Employment Permits legislation requires a direct employer/employee relationship be established between the employer and non-EEA employee.</p> <p>The Workplace Relations Commission (WRC) defines an agency worker as an individual employed by an employment agency under a contract of employment by virtue of which the individual may be assigned to work for, and under the direction and supervision of, a person other than the employment agency. The Employment Permits Act 2024 (which entered into force from 2 September 2024) has adapted the legislation and now allows for an employment agency to act as an employer and apply for an employment permit where the non EEA national will work or provide service for a third person. The contract of employment under this employment arrangement defined in the legislation as being:</p> <p>any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971 and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract).</p>

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			<p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>Compliance with all aspects of employment law and licencing of employment agencies is supervised by the Workplace Relations Commission.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>Employment agencies are subject to compliance and licencing under the Workplace Relations Commission. The Employment Permits legislation sets out criteria that must be met and restrictions that apply to the grant of an employment permit to a non EEA national to work in Ireland. These could include the requirement for a labour market needs test, meeting the 50:50 EEA nationals to non EEA nationals rule or minimum remuneration. These criteria would apply to the grant of an employment permit to a non EEA national under a contract of employment with an employment agency as with other employer types, subject to the type of employment permit being applied for. The Employment Permits Act 2024 sets out mandatory and discretionary grounds whereby an application for an employment permit may be refused.</p>
	<p>EMN NCP Italy</p>	<p>Yes</p>	<p>1. Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>YES</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>Third country nationals legally residing in Italy and authorized to work have access to the labor market under the same conditions as other workers.</p> <p>In this context, Italian legislation allows employment agencies authorized for the provision of temporary work services, pursuant to Legislative Decree 81/2015 and Legislative Decree 276/2003, to hire workers on behalf of</p>

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			<p>their clients. However, this is permitted under certain conditions.</p> <p>With regard to third country workers, agencies must ensure compliance with different regulations related to the management of the workforce, including those concerning immigration and employment.</p> <p>Regarding international recruitment procedures, employment agencies are authorized to participate in the process of requesting a clearance (nulla osta) for the entry of a third country worker residing abroad, within the quotas set annually by the Italian Government pursuant to the Consolidated Immigration Act (Legislative Decree 286/1998 – Testo Unico sull’Immigrazione).</p> <p>Employment agencies can submit individual requests for a clearance for the entry of non-EU workers residing abroad, in order to establish in Italy a fixed-term or permanent employment relationship between the requesting agency and the aforementioned workers. Based on the commercial contract for temporary employment, the agency provides one or more of its employees to the client, who are then sent on assignment and carry out their activities at the client's premises.</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>Employment agencies are authorized by the Ministry of Labor and Social Policy (MLPS) to provide temporary work services and are registered in a dedicated digital national register. Inspections of the activities of employment agencies are conducted by the MLPS and are regulated by Article 3 of Decree-Law 75/2023 (converted into Law No. 112/2023), Legislative Decree 150/2015, Legislative Decree 276/2003, and related sector-specific regulations.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>There are no specific regulations to prevent abuses related to the hiring of third country workers. The current sector regulation on safety and the supervision of temporary work services apply.</p>
	EMN NCP Latvia	Yes	<p>1. Does the legislation of your Member State allows that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p>

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			<p>Yes.</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>In order for a merchant to be able to provide outsourcing of recruitment services, it is necessary to obtain a license for the provision of employment services issued by the State Employment Agency. Obtaining a license, determined by Cabinet of Ministers Regulation "Procedures for Licensing and Supervision of Merchants - Employment Service Providers."</p> <p>The license indicates the country or countries in which the jobseekers are employed and the type or types of employment services in which the merchant is entitled to provide employment services. The license is issued for three years.</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>The State Revenue Service has the right to monitor employment service providers for violations of wage payment and non-payment of taxes. The State Labor Inspection monitor for violating the laws regulating labour rights. The employee assigned by the labour supply service provider has the right to use the amenities, common facilities or other facilities of the labour supply service recipient's company, as well as transport services under the same terms as employees with whom the labour supply service provider has established employment legal relations directly, except in the case of a different the attitude can be justified by objective reasons.</p> <p>An agreement that prohibits or restricts the right of an employee assigned by a labour supply service provider to establish employment legal relations directly with a labour supply service recipient is not valid.</p> <p>The requirement of equal treatment, which is defined in Labor Law, includes working and rest time, pay, pregnant women, women in the postpartum period up to one year, breastfeeding women, children and adolescents, as well as equal protection the principle of rights and the principle of non-discrimination.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p>
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			<p>No. Foreign employers who send their employees to work in Latvia, as well as Latvian employers, may be held administratively liable for the violation of the Labor Law, Labor Protection Law and other regulations violation of legal requirements, which threatens the safety, health, legally justified interests of employees or worsens their condition.</p>
	<p>EMN NCP Lithuania</p>	<p style="text-align: center;">Yes</p>	<p>1. Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>Yes, the legislation allows temporary employment agencies (as regulated entities) to hire third-country nationals on behalf of their clients, provided these agencies meet the specific criteria and are registered accordingly.</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>The legal base is found in the Labor Code of the Republic of Lithuania, specifically outlined in Articles 72 and 72^1. These sections detail the concept and requirements for temporary employment contracts, including the criteria temporary employment agencies must meet to operate legally and employ third-country nationals. The text of the Labor Code is available in the Lithuanian language here: https://www.e-tar.lt/portal/lt/legalAct/f6d686707e7011e6b969d7ae07280e89/asr</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>Supervision is carried out by the State Labor Inspectorate, which maintains a registry of compliant temporary employment agencies. These agencies are required to submit monthly reports on their employment activities, including the employment of third-country nationals. Failure to comply with reporting requirements or to meet the stipulated criteria can result in removal from the registry.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by</p>

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			<p>employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>Yes.</p> <p>Lithuania has established stringent regulatory measures to restrict or limit the hiring of third-country nationals by employment agencies, aiming to prevent misuse, as detailed in the Labor Code and further supported by the Employment Law and the Law on the Legal Status of Foreigners.</p> <p>Employment agencies must meet several criteria to ensure their operational integrity, including the absence of ongoing bankruptcy proceedings, liquidation, or non-judicial bankruptcy processes. These agencies are also required to be current on tax payments and free of significant debts to the state budget or social security funds, ensuring financial compliance and integrity in hiring practices. Moreover, agencies must maintain a clean administrative record, with no more than one fine related to illegal employment, undeclared work, or violations of third-country nationals' employment regulations within the past year, and must fully comply with any obligations arising from past infractions.</p> <p>To ensure ongoing compliance, agencies are required to submit detailed monthly reports to the State Labor Inspectorate, including information on the employment of third-country nationals and their working conditions. This reporting ensures regular oversight and the early detection of any potential abuses. Additionally, agencies must be listed in a publicly accessible registry maintained by the State Labor Inspectorate, confirming their compliance with legal requirements.</p> <p>Specific provisions protect third-country nationals by mandating that their employment contracts adhere to Lithuanian labour laws, ensuring fair wages, working hours, and conditions equivalent to those of local employees. The law also enforces protections against discrimination and exploitation. Strict enforcement measures are in place, including penalties, license revocations, and criminal charges for non-compliance, deterring misuse of the hiring system. Third-country nationals have the right to legal recourse in case of contractual disputes or employment violations, empowering them to seek justice and reinforcing the protective framework.</p>
	<p>EMN NCP Luxembourg</p>	<p style="text-align: center;">Yes</p>	<p>1. Does the legislation of your Member State allows that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>YES.</p>

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			<p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>The legal scope of employment agencies is legally regulated by article L. 131-1. and following of the Labour Code. It has to be noted that employment agencies can only recruit TCNs that already have a valid residence permit in Luxembourg and are legally residing in Luxembourg. Besides, it should be noted that it only concerns temporary employment.</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>The activity of temporary work entrepreneurship is subject to a mandatory authorization from the Minister responsible for Labour, who decides based on the opinion of the Employment Agency and the Labour and Mines Inspectorate. The enforcement of compliance with legislation regarding temporary work falls under the jurisdiction of the Labour and Mines Inspectorate.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>As mentioned under point 2. TCNs can only be employed by employment agencies if they already reside legally in Luxembourg. Temporary occupation does not grant the possibility to obtain legal residence in Luxembourg. Therefore, employment agencies are not allowed to hire TCNs who are not legally residing in Luxembourg.</p>
	<p>EMN NCP Netherlands</p>	<p style="text-align: center;">Yes</p>	<p>1. Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>YES</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p>

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			<p>In the Netherlands, the hiring/lending of personnel by employment agencies is bound by rules from the Waadi Act (in Dutch: the Wet allocatie arbeidskrachten door intermediairs). Someone who hires foreign personnel through an employment agency must also comply with the rules of the Foreign Nationals Employment Act (wav) in addition to the rules of the Waadi.[1] According to the Wav, all TCNs need to have a work permit in order to be allowed to work in the Netherlands – unless they fall under an exemption.</p> <p>Employers who hire personnel from outside the EU and the EEA via an intermediary (such as employment agencies, contracting companies, cleaning companies or subcontractors) established in the Netherlands are considered employers alongside the intermediary, within the meaning of the Foreign Nationals Employment Act (Wav). A foreign worker who is hired can thus have more than 1 employer, namely: the intermediary and the employer who hires them. In this case the intermediary must request the work permit. The intermediary will apply for such a permit in the name of the foreign worker. The foreign worker may then use it to do the work for the company/the employer that is stated on the work permit. The employer however, is also responsible for checking if the foreign worker has a work permit, before they start to work in the company. [2]</p> <p>It is also possible for personnel to be hired through an employment agency established in another European country. This is called posting. In this case, personnel is exempt from the obligation to have a Dutch work permit. They do, however, need to legally and habitually work and reside in the sending member state. They also need to be genuinely posted which among others means that the employment agency must have substantial activities in the country of establishment, and that the posting must be temporary. If this is not in order, the person hiring the temporary personnel can be fined for illegally employing a TCN.[3]</p> <p>[1] Netherlands Labour Authority, 'Inhuren en uitlenen van arbeidskrachten', https://www.nlarbeidsinspectie.nl/onderwerpen/inhuren-en-uitlenen-van-arbeidskrachten, last accessed on 20 August 2024.</p> <p>[2] Netherlands Labour Authority, 'Inhuur van buitenlandse personeel', https://www.nlarbeidsinspectie.nl/onderwerpen/inhuur-van-buitenlands-personeel, last accessed on 20 August 2024.</p> <p>[3] Information provided by the Ministry of Social Affairs and Employment on 3 September 2024.</p>
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			<p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>In the Netherlands the Netherlands Labour Authority (NLA) monitors compliance of employment agencies and other intermediaries with both the Waadi Act and the Foreign Nationals Employment Act (wav). Among other things, the NLA can impose a fine or other sanction if rules are violated.[1] On top of that, an employer who hires a worker through an intermediary must check whether the intermediary is registered as such in the trade register of the Chambers of Commerce (KvK). This can be done with the so-called Waadi-check. If this is not the case, the hirer and the intermediary each risk a fine under the Waadi Act, which depends on the number of workers hired through the intermediary.[2]</p> <p>[1] Netherlands Labour Authority, 'Wet arbeid vreemdelingen', https://www.nlarbeidsinspectie.nl/onderwerpen/wet-arbeid-vreemdelingen, last accessed on 20 August 2024.; Netherlands Labour Authority, 'Inhuren en uitlenen van arbeidskrachten', https://www.nlarbeidsinspectie.nl/onderwerpen/inhuren-en-uitlenen-van-arbeidskrachten, last accessed on 20 August 2024.</p> <p>[2] Netherlands Labour Authority, 'Inhuur van buitenlandse personeel', https://www.nlarbeidsinspectie.nl/onderwerpen/inhuur-van-buitenlands-personeel, last accessed on 20 August 2024.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>NO, however to combat abuse and labour exploitation by employment agencies, the Dutch government will be introducing a new admission system as of January 1, 2026. This new system will regulate the temporary employment sector. Temporary employment agencies and other hirers, must from that moment on be "authorized" in order to be allowed to assign personnel. This also applies to foreign borrowers and organizations for which personnel lending is a secondary activity. Within this system, employers may only hire personnel from authorized agencies, otherwise they risk a penalty or a fine.[1]</p> <p>[1] Dutch House of Representatives, 'Wet toelating terbeschikkingstelling van arbeidskrachten', https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorsteldetails&qry=wetsvoorstel%</p>
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			3A36446, last accessed on 20 August 2024.
	EMN NCP Poland	Yes	<p>1. Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>YES</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>The basic act regulating the activities of employment agencies is the Act of April 20, 2004 on employment promotion and labour market institutions (Journal of Laws of 2024, item 475, as amended). The rules for employing temporary workers by an employer who is a temporary employment agency and the rules for directing these employees and persons who are not employees of a temporary employment agency to perform temporary work for the user employer are regulated by the Act of July 9, 2003 on the employment of temporary workers (Journal of Laws of 2023, item 1110).</p> <p>With regard to the type of services provided by employment agencies, it should be emphasised that this is a regulated activity within the meaning of the Act of March 6, 2018 - Entrepreneurs' Law. Pursuant to Art. 37 section 1 of this Act, the pursuit of economic activity in areas that are particularly important for the security of the state or citizens or other important public interest requires obtaining a license only if this activity cannot be performed freely or after obtaining an entry in the register of regulated activities or a permit. Moreover, if separate regulations provide that a given type of activity is a regulated activity, the entrepreneur may conduct this activity if he or she meets the conditions specified in these regulations and after obtaining an entry in the relevant register of regulated activities (Article 43(1) of the Entrepreneurs' Law).</p> <p>Pursuant to Art. 18 section 1 of the Act on the promotion of employment and labour market institutions, conducting business activities in the field of providing employment agency services, personnel consulting, career guidance and temporary work, consisting in employing temporary workers and directing these employees and non-employees to perform temporary work for and under the supervision of employer, on the terms set out in the provisions on the</p>

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			<p>employment of temporary workers - is a regulated activity and requires entry in the register of entities running employment agencies.</p> <p>The register is kept by the voivodeship marshal office competent for the registered office of the entity applying for entry.</p> <p>An entity intending to provide services or providing employment agency services cannot:</p> <ol style="list-style-type: none">1) have arrears of taxes, social security contributions, health insurance contributions, the Labour Fund and the Guaranteed Employee Benefits Fund and the Bridge Pension Fund2) be punished for crimes or misdemeanours specified in the Act3) be an entity in respect of which liquidation has been opened or bankruptcy has been announced. <p>On a quarterly basis, the voivodeship marshal office obtains data from the Social Insurance Institution on the arrears of the temporary employment agency in the field of social insurance.</p> <p>The employment agency is obliged to present to the voivodeship marshal office information on the activities of the employment agency in the scope of providing agency services in the territory of Poland by January 31 of each year for the previous year and to inform about changes in data, type of services provided, cessation, suspension or resumption of activities.</p> <p>The employment agency is also obliged to have premises where its services are provided.</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>The voivodeship marshal office supervises compliance with the above-mentioned regulations. conditions for running an employment agency. In addition, it provides the minister responsible for labour with collective information from the voivodeship regarding information on the activities of employment agencies by March 31 each year.</p> <p>In addition, employment agencies cannot charge fees from people for whom they are looking for employment or to whom they provide assistance in choosing the right profession and place of employment (except for fees for the travel and return of the referred person, visa issuance, medical examinations and translation of documents).</p> <p>Moreover, before sending a person to work abroad or temporary work to an entity operating outside the territory of Poland, they are obliged to provide the person with information in writing about the costs, fees and other charges</p>
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			<p>related to management and taking up and performing work abroad.</p> <p>Referral to work abroad for foreign employers through employment agencies takes place only directly to the foreign employer on the basis of a written agreement concluded by these agencies with the referred persons.</p> <p>An employment agency cannot discriminate against people for whom it is seeking employment or other paid work. Pursuant to Art. 10 section 1 point 3 of the Act of April 13, 2007 on the National Labour Inspectorate (Journal of Laws of 2024, item 97, as amended), the tasks of the National Labour Inspectorate include monitoring compliance with the obligation to run an employment agency in accordance with the conditions specified in the regulations Act on employment promotion and labour market institutions.</p> <p>It is a body statutorily established to supervise and control compliance with labour law, and to prosecute offenses against the rights of employees and other persons performing paid work. The National Labour Inspectorate has been equipped with appropriate powers and means to perform tasks related to supervision and control, as well as enforcing employers' compliance with applicable legal provisions.</p> <p>These rights include, among others, the right to freely enter and move around the premises of the inspected entity, request information on matters covered by the inspection, submit documents related to, among others, with the employment and remuneration of employees, issuing orders to remove identified violations of the law, and the right to participate in proceedings in cases of offenses against employee rights as a public prosecutor.</p> <p>The Employment Promotion Act also provides for misdemeanour liability for offenses against the provisions of the Act and financial penalties, including: for the provision of services required to be entered in the register of employment agencies without such an entry or for employment agencies charging illegal fees from their clients.</p> <p>The Act on the Promotion of Employment and Labour Market Institutions does not contain regulations that restrict employment by employment agencies of foreigners from third countries in Poland.</p> <p>Pursuant to Article 85a of the Act on the Promotion of Employment and Labour Market Institutions, an employment agency may refer foreigners for employment or other gainful work only directly to entities operating in the territory of the Republic of Poland.</p>
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			<p>Referral of a foreigner by an employment agency to an entity operating in the territory of the Republic of Poland entrusting the performance of employment or other gainful work to a foreigner shall be based on a written agreement concluded between the employment agency and the foreigner.</p> <p>The employment agency is obliged to provide the foreigner referred for employment or other gainful work with a written translation of the agreement into a language he or she understands before signing it.</p> <p>The employment agency is obliged to inform the foreigner referred for employment or other gainful work in writing, in a language he or she understands, about the rules regarding the entry, stay and work of foreigners in the territory of the Republic of Poland, as well as maintaining a register of foreigners referred for work and lists of entities to which foreigners are referred for employment or other gainful work.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>No. Outsourcing issues are not regulated in the Act on the Promotion of Employment and Labour Market Institutions.</p> <p>In relation to outsourcing, the Supreme Court in its judgment of 27 January 2016 (I PK 21/15) held that outsourcing can be defined as "an undertaking consisting in separating the functions performed by the parent company from the organisational structure and transferring them to another business entity for implementation". In connection with the above, it is important that the functions that a given company wants to use under the outsourcing agreement are performed by the business entity as part of its activities.</p> <p>In addition, the Supreme Court stated that "the basic feature distinguishing employee outsourcing from the employment of own employees or the provision of work by temporary employees is the lack of direct and permanent subordination (both legal and actual) of contractors in relation to the entity (insourcer) for which such services or work are performed. In the event that an outsourcer assigns an employee to work in another entity, the employee may only be subject to indirect and short-term supervision in the new workplace".</p>
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			<p>If employee outsourcing has the characteristics of an employment relationship or temporary work, such an agreement may be questioned by control bodies.</p> <p>It may also be the basis for applying misdemeanour liability. In its judgment of 20 September 2023 (III USKP 14/23), the Supreme Court referred to Article 58 § 1 and 2 and 83 § 1 and 2 of the Civil Code, according to which an attempt to circumvent the law or the appearance of a legal act may be the basis for declaring it invalid.</p>
	<p>EMN NCP Portugal</p>	<p style="text-align: center;">Yes</p>	<p>Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO. YES</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies? Decree-Law no. 260/2009, of September 25th (in its current wording) – article 23rd, number 1, b): “Within the scope of its activity, the agency must (...) act in accordance with the principle of equal opportunities in access to employment and may not discriminate, directly or indirectly, on the grounds of ancestry, age, sex, sexual orientation, maternity, paternity, marital status, family situation, genetic heritage, reduced working capacity, disability or chronic illness, nationality, ethnic origin, religion, political or religious convictions or trade union membership.” Also, article 24th (Duties of the agency), number 4: “The agency must ensure that third-country nationals applying for a job in the national territory hold a residence permit in Portugal or another title that allows them to work”.</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State? Prior notification Private employment agencies are obliged to prior notification to the national public employment services (IEFP), indicating the name or corporate name, address or head office, and main establishment in national territory, tax identification number (natural person), legal person identification number, commercial registration number and permanent certificate access code (legal person). The agency must also prove: • the good character of the applicant, partner, manager, director or administrator, • a regularised social security and tax situation, • adequate organisational structure, • the provision of a financial guarantee (optional). Financial guarantee The agency established in Portugal may set up a financial guarantee in favour of the PES to ensure its liability for the repatriation of the jobseeker in the event of non-compliance with the contract or promise of a work contract, for reasons for which</p>

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			<p>it is not responsible. An agency not established in Portugal which provides occasional and sporadic services here under the freedom to provide services may provide a financial guarantee of its liability for the repatriation of the jobseeker. National register The national PES (IEFP) ensures and makes available the National Register of Agencies, which includes private placement agencies established on national territory and also, whenever they exist, agencies not established on national territory that provide occasional and sporadic services there or are in a situation of suspension, interdiction or cessation of activity. Inspection The inspection of compliance with the provisions of the law and the investigation of the respective administrative offence proceedings are incumbent upon: a) The inspectorate of the labour area, in the context of the activity of private employment agencies, in the context of labour relations. b) The inspectorate of the ministry responsible for the economy in relation to breaches of competition rules. For the purposes of point b) of the previous paragraph, the public employment service and the labour inspection services must notify the service with inspection powers of the ministry responsible for the economy of all situations of which they are aware that show a violation of competition rules. When inspecting agencies that recruit and place seafarers on board, the competent authority shall be followed up, whenever possible, by an inspector from the Directorate-General for Natural Resources, Safety and Maritime Services.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>NO</p>
	<p>EMN NCP Slovakia</p>	<p>Yes</p>	<p>1. Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>No, a temporary employment agency does not employ on behalf of its clients, but as an independent legal or natural person. It employs third-country nationals in an employment relationship for the purpose of their temporary assignment to a user employer in the Slovak Republic to perform work under his supervision and guidance.</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>Legal base - Article 21 par. 4 and Article 29 of Act No. 5/2004 Coll. on Employment Services and on Amendments to</p>

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			<p>Certain Acts, as amended.</p> <p>A legal or natural person may carry out the activities of a temporary employment agency if they hold a permit for this activity. The conditions for issuing a permit for the operation of a temporary employment agency to a legal or natural person are as follows:</p> <ul style="list-style-type: none">a) They must have a clean criminal record (integrity); in the case of a legal entity, the person representing the temporary employment agency must also meet the condition of integrity.b) They must have no outstanding debts to the tax office or customs office.c) They must have no outstanding debts in social insurance, and the health insurance company must not have any overdue claims against them.d) They must not have been fined for violating the prohibition of illegal employment within three years before submitting the application for the permit to operate a temporary employment agency.e) They must own or rent premises.f) In the case of a legal entity, they must have equity of at least 30,000 euros.g) They must have a second-level university education; in the case of a legal entity, this condition must be met by the person representing the temporary employment agency.h) They must have a business plan for the operation of the temporary employment agency, including a calculation of expected income and expenses.i) They must have the necessary material equipment for the operation of the temporary employment agency.j) They must have the personnel resources necessary to operate the temporary employment agency.k) In the case of a natural person, they must have a bank guarantee of at least 15,000 euros.l) They must not have any unsatisfied claims from their employees arising from employment relationships. <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>A temporary employment agency provides protection to temporary agency workers in accordance with Act No. 311/2001 Coll., the Labor Code and Act No. 124/2006 Coll. on Occupational Safety and Health Protection, in relation to working conditions and employment conditions.</p> <p>The provision of protection to temporary agency workers is overseen by the relevant authorities established by Act</p>
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			<p>No. 125/2006 Coll. on Labour Inspection and Act No. 82/2005 Coll. on Illegal Work and Illegal Employment. The Central Office of Labour, Social Affairs and Family, as well as the labour office, will impose a fine on a legal entity or natural person for operating a temporary employment agency without a permit, ranging from 5,000 euros to 100,000 euros.</p> <p>The Central Office of Labour, Social Affairs and Family will revoke the permit to operate a temporary employment agency if:</p> <ul style="list-style-type: none"> a) The agency has not assigned temporary agency workers for a period of one year, b) The agency does not maintain records of temporary agency workers or fails to submit a report on its activities for the previous calendar year along with data from the records by March 31 of the following year via an electronic form submitted to the information system for employment services, does not have equity of at least 30,000 euros, or provided false information in the activity report, c) The agency has been fined for violating the prohibition of illegal employment. <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>See response to question 3.</p>
	<p>EMN NCP Slovenia</p>	<p>Yes</p>	<p>1. Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>Yes.</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>Article 7 (5) of the Act on Employment, Self-Employment and Work of Foreigners - ZZSDT (Official Gazette of the Republic of Slovenia, No. 91/21 - official consolidated text and 42/23).</p>

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			<p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>Supervision is carried out on the basis of Articles 174 and 174a of the Labour Market Regulation Act.</p> <p>Control over employers, including employers providing the work of workers to the user, in the Republic Slovenia, it is carried out by various authorities (Labor Inspectorate of the Republic of Slovenia - IRSD, Financial Administration of the Republic of Slovenia - FURS, ...) within the scope of their powers.</p> <p>At the same time, we add that the provision of Article 174 of the ZUTD stipulates the obligation to report and transmit data, which applies only to employers who provide the work of workers to the user, so its content can be defined for additional control of employers who provide the work of workers to the user.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>YES.</p> <p>Employers who perform the activity of providing work to another user may not and cannot employ citizens from third countries that do not have a permit for legal residence in the Republic of Slovenia. The fifth paragraph of Article 7 of the ZZSDT stipulates that employers who provide work to another user may employ citizens of third countries who:</p> <p>Have free access to the Slovenian labour market, To whom consent for employment, self-employment or work with a validity of three years has been issued. Consent valid for three years can be obtained by foreigners from Article 14 of the ZZSDT. At the request of the administrative unit, the Employment Agency of the Republic of Slovenia gives consent for employment, self-employment or work, if the foreigner meets the following conditions: has at least a vocational education or acquired national professional qualification in the Republic of Slovenia and was employed or self-employed in the Republic of Slovenia for at least 20 months in the last 24 months prior to submitting the application and on this basis were included in mandatory social insurance or</p>
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			<p>was employed or self-employed in the Republic of Slovenia for at least 30 months in the last three years prior to submitting the application and on this basis were included in compulsory social insurance or has obtained at least a higher education in the Republic of Slovenia during the last two years and intends to be employed or self-employed, or</p> <p>has completed a research work program in the Republic of Slovenia in the last two years and intends to be employed or self- employed.</p> <p>They reside in the Republic of Slovenia on the basis of an EU blue card.</p>
	EMN NCP Spain	Yes	<p>1. Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p> <p>No</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>-</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>-</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>-</p>
	EMN NCP Sweden	Yes	<p>1. Does the legislation of your Member State allow that employment agencies hired third-country nationals on behalf of their clients? YES/NO.</p>

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			<p>Yes.</p> <p>2. If you answer YES to Q.1, can you please provide the legal base on which you allow the outsourcing of recruitment of TCNs to employment agencies?</p> <p>The leasing Act (Uthyrningslagen) which regulates conditions for the leasing of labour by recruitments agencies is neutral in terms of citizenship of employees. The Aliens Act does not contain any prohibition against this type of employment.</p> <p>3. If you answer YES to Q.1, How is supervision of employment agencies organised in your Member State?</p> <p>The is no special rules just for supervision of employment agencies. It is the same rules that applies for employments agencies as for other employers.</p> <p>4. If you answer YES to Q.1 are there any regulations that restrict/limit the hiring of third-country nationals by employment agencies in order to avoid misuse? YES/NO. If you answer YES please explain.</p> <p>The Swedish Migration Agency has right to control if conditions for work permit are fulfilled after a third country national started an employment. This right to control applies for all kind of employments. If conditions for work permit are not fulfilled a residence and work permit can be withdrawn.</p>
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