



**PUBLIC AND PRIVATE SERVICES:  
TOWARDS A QUALITY ASSURANCE  
SYSTEM**

**COUNTRY REPORT  
BULGARIA**

**NATIONAL EMPLOYMENT AGENCY  
“EUROPEAN FUNDS AND INTERNATIONAL ACTIVITIES”  
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The employment services are aimed to expedite the exchange of labour as a commodity between employers and job seekers. The goal of these services is to promote labour mobility, productivity and improvements in social welfare.

The quality criteria for the ex-ante and ex-post control of the Public Employment Services /PES/ and the Private Employment Services /PRES/ are legally regulated.

The public employment services in Bulgaria are provided by the National Employment Agency/NEA/. It is also the institution that gives authorization to PRES. The certificate of registration is issued on behalf of the Minister of Labour and Social Policy while the actual examination and evaluation of the legal quality indicators and the decision for issuing the certificate is taken by the competent staff in NEA with the participation of a jurist. Furthermore, NEA keeps a registry with the authorized PRES and the contracts concluded between PRES on one side and a job-seeker and an employer on the other. The control and monitoring of activities of PRES, after they have been registered in NEA, is within the competence of the Labour Inspectorate Agency that is an institution to the Minister of Labour and Social Policy.

The objective of that country report is to provide a general overview of the legal framework for quality assurance in the public services, the authorization system and control of activities of the private services, the relationship between PES and PRES. In addition, the most common practices and offences are presented as well as the possible solutions for the future development.

## **I. LEGAL FRAMEWORK FOR QUALITY ASSURANCE IN THE PUBLIC SERVICES**

The operation of the employment services is regulated by the Employment Promotion Act, in particular Art. 26-29; the Rules for its application and the Regulation for the conditions and order for conducting mediation employment activities. Within the legal framework of the employment services there are two types of employment mediation services: public and private. The National Employment Agency /NEA/ provides the public employment mediation services in Bulgaria. It is a state institution to the Minister of Labour and Social Affairs. The main function is to conduct the employment and social policy and promote the sustainable employment. NEA was founded by government decree in 1990 and since then the Agency started to grant authorization for private employment services. In comparison with other European countries, both public and private employment services in Bulgaria exist and are legally regulated since 1990.

According to Art. 27 of the Employment Promotion Act /EPA/ the mediation services for employment shall be organized and provided by:

1. The National Employment Agency /NEA/;
2. Natural persons and/or legal entities, entitled to provide mediation services according to the Bulgarian laws, the legislation of any of the EU Member States or a country member of EFTA. With the recent changes in Art. 27, par. 2 of the Employment Promotion Act /in force of February 2006/

the range of subjects entitled for registration as PRES is extended. Before the changes it was envisaged that mediation services as PRES could provide only natural persons and/or legal entities, the controlling interest in which is over 50% Bulgarian, and which are registered under the Bulgarian laws.

There is a specific relation between PES and PRES regulated in the Employment Promotion Act. On the one hand, NEA is entitled to provide the public mediation services through its 127 territorial subdivisions – Labour Offices. On the other hand, NEA gives the authorization to the PRES by issuing a certificate /licence/ of registration, for the following activities:

1. Registration for providing mediation services for employment in the Republic of Bulgaria;
2. Registration for providing mediation services for employment in other countries, and for employment of maritime specialists;
3. Registration of mediation agreements with foreign employers, including ship-owners (operators)

The certificate for registration is issued after examination of the application of the candidate persons/entities by NEA. Only after meeting all the necessary quality criteria the registration can be authorised. The persons/entities with issued certificate of registration to provide private mediation services shall pay a fee, the amount of which is determined by a Tariff of the Council of Ministers. In addition, their mediation contracts concluded

with job-seekers and Bulgarian or foreign employers, including ship-owners (operators), shall be registered with NEA.

According to Art. 26 of EPA the mediation services for employment for both PES and PRES include the following:

1. Provision of information and consulting of job-seekers and employers;
2. Psychological support for jobseekers;
3. Referral to suitable programmes and measures for employment;
4. Referral to vocational and/or motivation training;
5. Referral to and assistance for employment, inclusive in other town in the country or in other countries
6. Services for the start-up of independent economic activity

The employers and the job-seekers are entitled to receive mediation services for employment. The services provided by the NEA as public employment mediation service are free of charges. The job-seekers wishing to benefit from public employment services, provided by NEA shall register in one of the Labour Offices according to their address registration. They can register in one of the following groups:

1. Unemployed;
2. Employed persons, who wish to change their jobs;
3. Students, who wish to work in their free time;
4. Retired persons

With the registration, the job-seekers shall undertake to fulfil the recommendations of the Labour Office. An action plan and a schedule of visits shall be prepared for each unemployed person registered. After a written invitation, the registered job-seeker is obliged to visit the Labour Office on the specified date and time. In case he fails to fulfil the recommendations of the Labour Offices and to comply with terms and schedule of visits specified in the action plan his registration will be terminated. Some of the main advantages of PES for the job-seekers, apart from that the services are free of charge, are the social benefits which the registered unemployed receive monthly. They also have the opportunity to be enrolled in different programmes for vocational training.

Employers shall be entitled to announce in the subdivisions of the Employment Agency:

1. Their vacant positions;
2. Their needs for training aiming at professional qualification of the persons hired, and their own capacity to organise such training

## **II. AUTHORISATION SYSTEM FOR PRIVATE SERVICE PROVIDERS**

The authorization regime including the quality indicators for PRES is determined by the Regulation of the Council of Ministers concerning the following:

1. The conditions and order for performance of intermediation activities for employment;

2. The conditions and order for registration of the persons and entities providing mediation services, as well as for the rejection and termination thereof;

3. The highest allowable amount of the price of the intermediation service provided, to be paid by the job-seekers and employer

4. The mandatory requirements for the content of the mediation contracts

Natural persons and/or legal entities, entitled to provide mediation services according to the Bulgarian laws, the legislation of any of the EU Member States or a member of EFTA can apply for authorisation at NEA. The authorization is granted after registration at NEA and issuing of a certificate in case of compliance with quality criteria specified in the Regulation.

Foremost, the candidate should submit an application form, accompanied with the necessary set of documents at NEA. The documents include certificate for registration of the company, organisation charter, proof of lack of tax obligations and a draft of a contract between the mediator and a job-seeker. In addition, certificates of conviction and certificates for the educational degree and the work experience of the natural person or the manager of the legal entity and the representatives of the staff involved in mediation activities. The candidates applied to perform mediation services in Bulgaria should submit a draft of a mediation contract with at least one Bulgarian employer. The candidates applied to perform mediation services in foreign countries should submit a draft of a mediation



contract with at least one foreign employer, containing information for the character and the conditions of the job, time-table, regulations of leaves, salaries, social security benefits, etc. In addition, an extract of the legislation of the foreign country regarding job employment of a foreign citizen should be submitted. For performance of job-mediation services for maritime workers a draft contract with a ship owner should be presented.

The application is examined by the “Private mediator services” division of NEA in 30 days after its submission. In case of incompleteness or inaccuracy of the documents, the irregularities found, should be eliminated during 14 days period. In case of compliance of the application with the requirements of the Regulation and after payment of the necessary fee, a certificate of registration is issued by NEA on behalf of the Minister of Labour and Social Policy for the period of 3 years. Before the expiration of the 3 years period a new application should be submitted. Any change in the circumstances stated in the application, should be declared in 10 days after their acknowledgement. In case the application is denied, NEA should inform the candidate in writing for the reasons of rejection. The denial might be appealed in the administrative court. A special registry of the issued certificates of registration for PRES is kept at NEA. The lists of registered Private Job Mediators and the Mediators with bereaved certificates are published at the web page of NEA [www.az.government.bg](http://www.az.government.bg) and are available in each of the 127 Labour Offices in NEA. The goal is to

prevent companies without registration at NEA to provide private employment services.

The registration can be terminated in the following cases:

1. By the request of the job mediator
2. If the job mediator asks or receives payments from the job-seekers
3. In case of violation of the requirements of the Regulation

In conformity with the requirements of the Regulation job mediators have the following obligations:

- They should provide information to the job-seekers for the vacancies, concerning the requirements for professional and physical skills
- Work conditions and remuneration, social insurance, etc.
- The mediator provides assistance for completion of the labour contract with the employer
- Under the request of the employer, the mediator makes selection of the appropriate candidates for a vacancy

According to the recent changes in the Employment Promotion Act, the commission fee for the private job mediator should be paid by the employer and after the labour contract with the employee is concluded. Before the changes it was envisaged to be 25% of the first salary of the employee.

The mediators, providing mediation services with employers in a foreign country, should provide to the job-seekers additional information for the labour legislation in

force in the foreign country, the culture and customs in the foreign country, the minimum required knowledge of the language and other requirements.

For any worker sent to a foreign country the mediator should provide to NEA proof for health insurance valid during the period of the concluded labour contract.

The mediation services for work abroad should be in compliance with the foreign labour legislation. The mediator can not agree worst working conditions and remuneration than the ones the worker might receive in his home country.

The mediator, providing employment mediation services in Bulgaria, should guarantee to the job-seeker compliance with the Bulgarian labour legislation.

The mediator should keep at his office a special register with the originals of the concluded contracts with the job-seekers and employers. A copy of each contract should be submitted to NEA where a register is kept as well.

According to the statistics for 2005 in the “Registration of private mediators” Division of NEA, 254 sets of documents have been examined.

174 certificates for registration have been issued for providing private mediation services, including: 106 for Republic of Bulgaria, 54 for foreign countries, 14 maritime specialists. 36 mediator contracts have been concluded with foreign employers /ship owners/. 33 requests for job mediation have been rejected on the ground of Art. 12, par. 1 of the Regulation, 42 contracts have not been completed due to incompliance with Art. 30 and 35 of the Regulation, the registration of 14 mediators have been cancelled.

As of 31.12.2005, 432 private mediators obtained certificates for conducting mediation activities; 231 for Republic of Bulgaria, 142 for abroad and 59 for maritime specialists.

According to the information submitted to NEA by the companies the following groups of persons have been employed in 2005 due to the mediation services of PRES: 6948 maritime specialists sailing under foreign flag, 296 employed Bulgarian citizens abroad, most of them in the USA; 79, in Great Britain, 58 in North Ireland, 35 in Tunisia and 34 in the Czech Republic.

According to data analyses, the number of job mediation companies providing jobs for Bulgarian citizens in the country is the highest.

The authorization for the organizations, providing vocational training is granted by the Ministry of Education and Science. Such training is provided under different programmes, organized by PES.

To summarize the authorization system for private service providers, should be stressed on the fact that the specific services for final consumers like job matching, vocational training are subject to the authorization regime by the administration. The quality indicators are legally regulated. In that aspect, if the candidate submits all the required documents by law and after the examination is concluded that they are in conformity with the legal requirements, the authorization should be granted. In case the competent administration rejects to grant authorization, the rejection might be appealed in the court. If the court

decides that application complies with the legal regulation, then the administrative body is obliged to grant authorization.

### **III. OUTSOURCING OF SERVICES WHICH ARE NOT SUBJECT TO AUTHORISATION**

At this moment, no practice is available for authorizing companies as labour mediators and organizations engaged in vocational training by tender procedure. Both services are subject to authorization by the administration, regulated by law with the exception of the services that are not legally regulated. Two examples can be pointed out for providing specific mediation services for which no authorization is legally required. However, they are not governed under any special regime that requires minimum quality standards. The lack of authorization should be considered as a gap in the current legislation which determines the absence of legal mechanism for the control of these activities. The following two cases should be highlighted: AU PAIR activities and youth and exchange of students brigades.

We have seen in the last years in Bulgaria a rapid increase of youths performing AU PAIR activities abroad, mainly in western European countries and USA, where AU PAIR jobs are widely used. They found vacancies through the mediation services of Bulgarian private companies. The status of that category of people, as well as the way and conditions for informing, consulting and mediation for

sending Bulgarian citizens abroad as AU PAIR, are not regulated by the Bulgarian legislation and is not a matter of national government policy. The status of that young people is whether likely “employees” or “learners” and the development of national system of consulting and information services are subjected to the European Agreement on “AU PAIR” placement of the Council of Europe, of which Bulgaria is not a party.

In virtue of Art. 2 of the Agreement, “AU PAIR” placement is the temporary reception by families, in exchange for certain services, of young foreigners, mostly girls, who come to improve their linguistic and possibly professional knowledge as well as their general culture by acquiring better knowledge of the foreign country. In conformity with Art. 9 of the Agreement, a person placed “AU PAIR” shall provide to the receiving family services consisting in participation in day-to-day family duties – childcare and helping in household activities. The Agreement stipulates the rights and obligations of each contracting party.

At the moment due to the fact that Bulgaria has not ratified the European Agreement “AU PAIR” and the persons are involved in a specific group, providing mediation employment services, that category people is not within the meaning of the Employment Promotion Act and the current legislation.

The international programs for cultural exchange of university students give them the opportunities to live and work in USA and Member States during their summer holidays. The goal of the international student exchange is dedicated to attracting the students to involve in these programs and to encourage their acknowledgement with the culture and life in the USA and Europe, upgrading their language skills, visiting famous places as well creating new contacts and friendships. In this context, the international programs for cultural exchange of students can not be considered as international agreements for exchange of labour forces and/or programs for retaining/keeping and promotion of employment under the Employment Promotion Act.

Today there is no special rules in Bulgaria which administrates the activities of persons related with the organization and mediation of international programs for cultural exchange, programs corresponding to seasonal practice, student internships, youth brigades and in the area of specialization abroad, AU PAIR, Work and Travel USA, as well training in foreign colleges and universities.

#### **IV. PRESENTATION OF CASE STUDIES AND/OR GOOD PRACTICES**

The control and monitoring of the job mediation activities of PRES is within the competence of the Labour Inspectorate Agency that is a state institution to the Minister

of Labour and Social Policy with the same legal status as NEA. They examine the register of PRES kept at NEA. In addition, they can make on spot inspections to find out the legitimacy of the companies, providing job-mediation services.

There are two types of sanctions legally regulated in the Employment Promotion Act. Both sanctions are in the form of fines and could be imposed for the following offences:

1. A person/legal entity, provides mediation employment services without ex-ante authorization by NEA;
2. The mediator has an authorization, but his activities are in violation of the rules of EPA and the Regulation

In case of fraud, the envisaged sanction in the Criminal Code is imprisonment up to 6 years. However, the court procedure is usually very long due to the necessary participation of all victims as witnesses in the case.

There have been many cases in the last years that can be distinguished as examples of fraud. In the different cases only the target groups of the job-seekers /victims/ and the amount of the fees differ, while the scenario is the same. A person/legal entity advertises vacancies usually abroad with attractive remuneration. To be placed at the advertised job, the job-seeker is asked to pay a commission fee to the mediator in advance usually accompanied with additional



payment for issuing work permit, visa if necessary, translation of the documents, etc. After the payment either the mediation service is not provided at all or the job turns to be different than the one advertised.

In the year of 2005, from May 9 to 27, the Executive Labour Inspectorate Agency, conducted a national campaign “Inspection/Monitoring of the Persons/Legal Entities providing employment mediation services” whether they observe the regulations and the rules concerning the Employment Promotion Act and the Regulation for the conditions and order of providing employment mediation services.

Within this monitoring period 175 persons/legal entities providing mediation services for employment in Bulgaria, abroad and of marine specialists have been inspected. That is approximately about 55.38 % of the registered PRES up to 1<sup>st</sup> May 2005 in NEA.

Officials from the Labour Inspectorate Agency conducted 243 inspections on spot in order to ascertain the violation of the current legislation. During these inspections 281 offences have been founded, 262 instructions have been sent and 62 protocols for established offences have been issued.

During the national campaign of the Labour Inspectorate Agency, the established offences performed by the job mediators could be summarized as following:

### 1. Offences concerning the payment of the mediation service fee

- The mediator provides employment mediation services after obtaining payment in advance by the job-seeker. The fee which is usually called “registration fee” or “fee for information service” is requested in order the job-seeker to be registered. That is in breach with the legislation /Employment Promotion Act and the Regulation/. 7 offences of that kind have been established during the examined period.
- The contracted fee between the mediator and the job-seeker exceeds the specified amount of 25% of the first salary /as it was envisaged in the legislation in force during the examined period/. 6 offences are established.

The above-mentioned offences are performed in most of the cases cumulatively and in some cases separately.

2. Offences, concerning the obligation of mediator to inform NEA and Labour Inspectorate Agency for changes and/or supplements of the documents required for the registration or change of their addresses for which the agencies have not been informed. 28 offences have been established.

3. Offences, concerning the obligation of the mediator to complete the contract with the job-seeker and with the employer. 31 offences have been established.

The following offences could be identified in the activities of job mediators, providing services for employment in Bulgaria:

- the mediator do not provide mediation services to job-seekers
- the mediator do not provide to the Employment Agency information concerning the job-seekers, placed at job

The offences, performed by mediators registered to provide mediation services for employment abroad could be classified as follows:

- the mediator does not register in the Employment Agency each mediation contract completed with the foreign employers;
- the mediator does not provide to the job-seekers an extract of the current legislation of the foreign country regarding employment of foreigners and/or the labour contract is not translated into Bulgarian language;
- the mediator does not provide guidance of the job-seekers according to the conditions envisaged in the labour contract with the foreign employer

The following offences are considered as the most common for the mediators, providing services for employment of marine specialists/sailors:

- the mediator does not register in the Employment Agency each mediation contract concluded with a ship owner/operator;
- the mediator does not provide to the job-seekers the labour contract, proposed by the ship owner/operator, translated into Bulgarian language;
- the mediator does not submit to the Employment Agency information for the performance of each registered contract with the ship owner/operator

## **V. POSSIBLE DEVELOPMENT OF PRESENT SITUATION IN BULGARIA**

The relation between PES and PRES is regulated within the legal framework. In that aspect, the criteria for the common frame of reference for the PES – PRES system in Bulgaria are legally regulated. Moreover, according to our legislation, PES evaluates and gives authorization for PRES. That model definitely provides grounds for critical approaches regarding the efficiency of functioning and cooperation between PES and PRES systems. Furthermore, some questions might be raised if the authorization system gives added value and in particular if it is justified the authorization to be granted by PES. Both PES and PRES are aimed to provide the same services and to compete. However, in the public opinion it is considered that they respond to different market needs. PRES are more likely to serve to skilled workers, many of whom are currently

employed and searching for new jobs, while PES serves mainly to the unemployed, particularly low-income and unskilled. On the other hand, PES provide income assistance to the unemployed which is a motivation to some of the job-seekers to register.

Considering the possible development of the quality framework of PES and PRES in Bulgaria, two types of measures could be highlighted:

### **I. Legislative measures**

- changes in the legal framework of the authorization system
- more efficient ex-post control
- prosecution of the most serious offences and more efficient sanctions
- in case of fraud – imposing of sentences corresponding to the degree of offence within more efficient court procedure

### **II. Organizational measures**

- improving the administrative services of NEA such as guidance concerning procedures, access to necessary information, acceptance of applications and notices and issuance of certificates for performing mediation services;
- NEA administration should require support of private service providers for hiring employees in Bulgaria and abroad in regard to information

services, public relations, to improve the quality and efficiency of mediation services;

- Effective and operative control/inspection of the work of the private companies providing mediation services to the citizens of Bulgaria.
- Enhancing and strengthening the administrative capacity of the staff in PES and PRES directly involved in providing mediation services to job-seekers and employers and enhancing their professional skills by training;
- Advertising and informing the job-seekers for the changes in the legislation, their rights and obligations as job-seekers, the amount of fees specified in the legislation in order to prevent fraud, other offences and bad practices by PRES.