

The Key Issues of Labor Migration in the Czech Republic

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Abstract. This paper aims to highlight some often occurring failures that need to be eliminated when attempting to develop an integral and efficient policy on labor migration. As an example, a brief overview of the development of immigration policies and its critical shortcomings in the Czech Republic is provided. Following this, the paper analyzes two aspects: the protection of migrant workers and the trafficking in human beings.

In particular, the paper deals with three crucial issues of labor migration which are: (1) the inconsistent aims of immigration policies, (2) the client system, and (3) the dependence on middlemen. The paper also focuses on the role of state, police, and NGO's in the trafficking in human beings and forced labor or labor exploitation in the Czech Republic. In addition, the legislation on forced labor and the possibilities of assistance to trafficked person are analyzed.

By comparing various aspects of immigration policy, this paper covers some, but certainly not all, of the key issues concerning the process of immigrant integration. Several suggestions are made that could improve the situation of labor migrants in a significant way.

Keywords: *labor, migration, immigration policies, client system, middlemen, trafficking, exploitation*

Introduction

In this paper, I would like to focus on key issues of labor migration in the Czech Republic. Although the immigration policies of all states differ significantly, countries in the same region might face the same or similar problems. Therefore I would like to share with you the experience of the Czech Republic at this seminar to open a debate about the key issues concerning different immigration policies.

The development of immigration policies in the Czech Republic

The Czech immigration policy had been rather passive until the end of the 1990s. Since then, some significant changes have taken place. It was mainly the prospect of EU accession and the increasing number of immigrants which has led to a more active stance on migration control and some more pro-active measures.

The immigration policy was quite liberal and limited until 1997. Since 1998 there has been a restriction of the work permits in the CR labor market in districts with a high unemployment rate. The New Immigration Act came into force in 2000. The Act has tightened eligibility conditions for residence permits and resulted in a fall in the number of resident-permit holders in 2000. The basic principles of the government's immigration policy were formulated in 2002, and the basic principles of the integration policy were designed in an earlier strategy (1999) entitled *Integration of Foreigners in the Czech Republic* (Drbohlav, 2004).

However, the state activities in migration policy have been more driven by the need to further harmonize legislation with the EU rather than by the reaction to migration needs. This might be one reason for an alarming lack of in-depth or detailed socio-economic analyses of current and future trends that could help to better develop migration policies.

The critical shortcomings in the immigration policy

Although there are many problems in the Czech immigration policy, I would like focus on two which I believe to be key problems. The first of these is undoubtedly the inconsistent and rather vague immigration policy. One might argue that there are political documents claiming that the Czech immigration policy is pro-actively open to migrants or that the migration policy initiatives have shifted in the last years from the multicultural approach towards "civic integration" approach (Barsova, 2005). However, these "principles" and "shifts" are not embedded in law or state regulations, and their character is more demonstrative. A good example can be seen in integration policy and its strategies which expect migrants to actively learn Czech and accept the Czech culture, but neither classes of the Czech language nor classes about the Czech culture were offered. Another example is the claim of immigration policy to be pro-active. In reality, the number of bureaucratic obstacles and formalities prevent most migrants from entering the labor market without using the services of work agencies.

Furthermore, the inconsistencies of the policy are characterized by frequent changes in the law concerning foreigners. The vague principles and aims complicate or even make it impossible to develop other policies which are connected to migration policy e.g. policy on combating human trafficking and forced labor.

The second key problem concerns the gap between theory and practical elements of immigration and integration policies. This is heightened by the fact that “integration is not regulated by a law, but via government resolutions. This means it is now up to regional administrators to decide whether they establish ‘integration bodies’ to support the integration processes in their particular region” [Drbohlav 2004:13]. Considering many other problems need to be solved at the regional level, integration issues are often neglected or even omitted.

According to my opinion, these two shortcomings are behind many other shortcomings such as: the lack of counseling centers for immigrants on the level of regional governments and municipalities; no development of transparent indicators, through which one can easily consider whether the integration in a given field has been successfully accomplished or not; the absence of programmes which would tackle other specific problems that complicate foreigners’ life (e.g. language classes, long waiting for a permanent residence permit etc.); the fact that no attention is paid to vulnerable groups of foreigners and many others.

The client system

Cernik (2006) claims that despite a labor shortage, there are only limited opportunities to work legally in the Czech Republic for the citizens of countries of the Commonwealth of Independent States (CIS). These citizens usually choose to be dependent (or become dependent) on the services of intermediaries, so-called clients, to organize their stay.

Although the client system is to some measure imported from the migrant’s homeland, the Czech legal, political, and economic environment have been playing a crucial role in developing and sustaining the client system. The economic activities of Eastern Europeans in the Czech Republic were organized spontaneously since 1990. Informal networks of migrant labor organization occurred, and future clients consolidated their business in the first half of nineties (Uherek, 2004). The second half of the nineties is characterized by a sporadic state effort to regulate the influx of labor migrants. The immigration policy became more restrictive in 2000 after the New Immigration Act came into force. At the same time, the clients transformed their positions into both formal and informal institutions. Since then, the client system became the most common strategy to enter the labor market for citizens from CIS (Cernik, 2006).

The client system should be seen as one part of a three-stage hierarchy where the groups of organized crime are on top and the migrant workers are at the bottom. The third group – clients – is in the middle. The main activity of clients within this system is intermediation. Clients (a) transmit money between mafia and migrants, (b) act as intermediate contacts among immigrants and labor offices, employers, embassies and other offices, (c) work as contact men between the labor supply and demand, and (d) provide information/knowledge of the rules (Nekorjak, 2005). The client system protects the laborer to some extent, but while doing so, it isolates (and often exploits) them at the same time. It seems to be that all stakeholders (employers, clients, groups of organized crime, and sometimes migrants) benefit from the system. A migrant's benefit depends on the rules imposed by the client. The clients usually take "a tax" (from 30 to 50 per cent) from a laborer for all services including protection. A part of this money goes to groups of organized crime. The employers usually hire workers from the client, and they benefit because they do not have to pay social security and health insurance payments. Thus, it will be extremely difficult to get rid of the client system in the CR because there are too many key actors who benefit from the present circumstances.

Work agencies and the protection of migrant workers

The client system is closely connected with the issue of work agencies in the CR. As mentioned above, the level of bureaucracy and constantly changing law concerning foreigners makes it almost impossible for CIS citizens to enter the Czech labor market. Even in the cases where migrants do not join the client system, the system drives them to use work agencies or so-called middlemen. The number of work agencies for foreigners is about 1100³⁶. However, the problem is not the number of agencies itself but the fact that once they receive a concession from the Ministry of Labor and Social Affairs, nobody controls them. As a consequence, middlemen have their ways to arrange whatever is needed and of course often abuse workers.

³⁶ This number is very close to the number of work agencies in Germany, which has eight times more inhabitants.

The control mechanisms of employment, labor conditions, and standards in the workplace are well developed. The legislation: labor code, law on labor inspection, and law on employment³⁷ should assure a satisfactory work environment. In addition, both employment offices and labor inspectorates are in charge of monitoring either from their own initiative or on the basis of an incentive. Labor offices check mainly if the employment law is followed (e.g. employment of foreigners, active employment policy), and the labor inspectorates focus on work regulations (e.g. working conditions, work safety, working hours). Although their authority in the area of monitoring is well specified, there are some issues which are neither included in the authority of labor offices nor in the authority of the labor inspectorates. These “monitoring gaps” cause no attention to be paid to work agencies. However, this is not the only gap in monitoring. As Burcikova [2006] points out “it is [also] not quite clear who should be monitoring the compliance with the prohibition of forced labor, since this issue is not included in any other national legal regulation apart from the Bill of the Fundamental Rights and Freedoms and in the Criminal code.”

The forced labor and human trafficking

As I showed above, the discrepancy between theory and practice of immigration policy strongly influence the policy on combating forced labor and human trafficking. While describing this discrepancy I will make use of the last report on human trafficking: *Trafficking in Human Beings and Forced Labor or Labor exploitation in the Czech Republic* by Petra Burcikova.

Human trafficking can be simply defined as compelling or coercing another person’s labor or services. Coercing can be subtle or overt; psychological or physical. The most common of these are debt bondage, the removal of their identity documents, or the use of intimidation and threats. Trafficked persons come from their countries of origin, pass through the countries of transit, and are exploited in the countries of destination. In the case of trafficking in human beings, countries can be classified according to this model. The Czech Republic is in a

³⁷ Law No. 65/1965 Labour code; Law No 251/2005 Law on labour inspection; Law No.. 435/2004 Employment law

specific position, being at the same time a country of origin, transit, and destination (Burcikova, 2006). This fact certainly makes it more difficult to create an effective policy against human trafficking.

Unfortunately, there are no states (maybe with the exception of the USA) which have a well developed policy against human trafficking. Thus, the possibility to learn from other states experience is very limited.

One of the key issues is that forced labor is not listed as a crime in the Czech criminal code. (According to the Czech law system only things which are listed in a criminal code can be defined as crime, so this means that the Czech system does not operate with leading cases, etc.) A slightly different situation is that of human trafficking, which often includes forced labor. The legal definition of trafficking in human beings came into effect in 2004. According to this definition, a person shall be prosecuted for trafficking when they induce, recruit, transport, transfer, harbor, or receive for the purpose of using this person for slavery, forced labor, or other forms of exploitation in the case the given person is under 18 years of age. In cases of trafficking in adults, violence or threats of violence, deceit or abuse of a fallacy, distress or dependence is required in order to be punishable (GAC 2006). Burcikova reports that "so far, there has been no court judgment according to this definition and, as such, this causes problems for the police and the investigators who complain of an absence of a clear interpretation statement, especially with respect to interpretation of forced labor." There are more reasons for that: (1) un-conceptual policy, (2) the courts and policeman have no experience with it because the law is rather new, (3) most people involved in these cases commute forced labor and trafficking for work in bad conditions, (4) no (political) will to understand the problem of trafficking and forced labor as an important issue, etc.

Conclusion

While over recent decades there has been great progress in Czech immigration policy, a number of discrepancies still remain. This paper analyzed the key problems, which include the un-conceptual aims of immigration policy and the gap between theory and practical elements of immigration policies. Following that, the consequences of these problems (the existing client system, work agencies, the

weak protection of migrant workers, and the forced labor and human trafficking) were analyzed.

REFERENCES

- Cernik, J. 2006. *Of Clients and Chereps. The Organisational Structures of Ukrainian Labor Migration*. in Migration Processes in Central and Eastern Europe: Unpacking the Diversity. Szcepanikova A., Canek M., Jan Grill J. (Eds.)
- Barsova, A. 2005. Multikulturalismus a politiky integrace pristeovalcu v Cesku. Available at: http://aa.ecn.cz/img_upload/9e9f2072be82f3d69e3265f41fe9f28e/ABarsova_Multikulturalismus_a_politiky_integrace_pristehovalcu_v_Cesku.pdf
- Burcikova, P. 2006. Trafficking in Human Beings and Forced Labor or Labor exploitation in the Czech Republic. La Strada report. Available at: http://www.strada.cz/download/files/LS_report_ENG_20_10_06.pdf
- Drbohlav D., Janska E., Horakova M. 2005. Current Immigration Debates in Europe: A Publication of the European Migration Dialogue Czech Republic. Available at: <http://www.migpolgroup.com/infopages/3001.html>
- Gabal, I. 2006. Combating human trafficking. Available at: http://aa.ecn.cz/img_upload/9e9f2072be82f3d69e3265f41fe9f28e/obchod_lidi.pdf
- Nekorjak, M. 2006. Klienty system a ukrajinská pracovni migrace do Ceske republiky. Available at: <http://www.biograf.org/konference/program.htm>
- OECD Economic Survey of the Czech Republic. 2004. Excerpt from Chapter 6, Immigration Policy: addressing the needs of an ageing Labor Force Available at: <http://www.oecd.org/dataoecd/43/61/33963950.pdf>
- Skrivankova K. 2006. Trafficking for forced labor, UK country report. Anti-Slavery International
- Uherek, Z., Valakova, N., Plochova K. et Musinka, M. 2004. Pracovni migrace ze Zakarpatske Ukrajiny do CR. Praha: Etnologicky ustav AV CR.
www.czso.cz Czech Statistical Office