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## **Migration opportunities – a few notes on the issue of dismissing foreign workers**

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### **Abstract:**

The article notes that the current migration predicament in the Czech Republic – following the dismissal of several thousand third country agency workers – has not been caused by the economic crisis alone, but also by Czech migration policy. The author identifies the critical points of current migration policy. He demonstrates the need to reform the policy and offers a way of solving these problems.

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The economic crisis has had a harsh impact on the ever growing community of foreigners in the Czech Republic. In the last few years, significant increases in GDP have encouraged dozens of thousands of foreigners to come to the Czech Republic each year. In 2007 the number of foreigners legally residing in the Czech Republic grew by 70, 000. In these times of job loss and general insecurity, foreigners are no longer considered useful and so the authorities have been searching for a solution to the complicated migration situation. The Czech Ministry of the Interior has prepared a text to be published – *Securing security of the Czech Republic after dismissal of foreign workers due to economic crisis* – in which they try to address the current situation. In the meantime, newspapers are reporting on sacked foreigners and on the desperate situation they are in; for example the first suicides have emerged in the Vietnamese and Mongolian community. Temporary accommodations for the dismissed migrants are established; fund-raising campaigns to buy food and clothing for the affected foreigners are organized. NGOs try to provide jobless workers with money, advice, and help when searching for a new job.

The Ministry of the Interior has prepared a comprehensive programme, based around an offer of voluntary return with a financial allowance. The programme also contains a number of both practical and legislative measures, such as a stricter policy on the issuing of business and employment visas above 90 days. This policy will be implemented through rigorous examination of the intended purpose of stay during the visa application decision-making process; through clarifying the current workforce and business needs of the Czech economy with regard to the use of labour migrants; and by specifying a range of jobs that employment agencies will not be allowed to offer to foreigners. The overall aim is to prevent the number of foreigners who are suffering under the

crisis in the Czech Republic from growing. I personally do not wish this project of the Ministry of the Interior to lead to a situation in which no foreign workers are admitted. However even now, before the programme's ratification by the Czech government<sup>1</sup>, there is evidence that the Czech Foreign Police and embassies and Missions Abroad are becoming stricter with regard to the issuing of residence permits and the extension of existing permits, even in the cases of family reunification. However, the crisis brings with it a unique opportunity to reconsider immigrant labour policy in the Czech Republic and to fully evaluate its shortcomings. Of particular interest are the "constructive" attitudes of some Czech Embassies Abroad. The (in)famous Czech Embassy in Vietnam, Ukraine or Russia<sup>2</sup> represent a "Promised Land" for those intermediaries who profit from the complicated visa application process for the Czech Republic. Both experts and the general public are amazed that the Embassies and the Foreign Police do not try to deal with these practices. After all, isn't this a great opportunity to make the whole system more transparent? One way of achieving this would be to make it a requirement to apply in person; to clearly outline to the authorities the applicant's business or work plan; to make the applicant's file accessible to him/her, as in other standard administrative proceedings; or to enable applicants to make appointments with the embassy via e-mail or phone, to prevent the Hanoi officials from accepting calls from *certain* phone numbers only.

There is also room for improvement in the system of returning foreigners to their countries of origin. However, in the Czech Republic, a country that is pushing for voluntary return of foreign workers, there is no option of so-called non-punishable departure for those foreigners who do not hold a valid visa. Many EU countries invest substantial sums in order to motivate foreigners to take up voluntary return to their countries of origin. In the Czech lands, it is impossible to leave the country without being punished unless you have a valid visa or travel documents. According to the present law on migration, the so-called voluntary return scheme is open only to an illegally residing foreigner who has already been punished for their offence. The voluntary return programme of the Ministry of the Interior is designed only for those foreigners who have valid visas exceeding 90 days. However, these immigrants have paid huge sums to various intermediaries in order to gain entry to the Czech Republic and therefore are not going to give up their residence here easily. Instead we will see a tendency for immigrants to try to endure the crisis in the Czech Republic with only an extreme situation following visa expiration or issuing of exit order increasing the probability of the foreigner's return. Detention is very expensive and ineffective. Non-punishable departure would help the estimated dozens of thousands of illegal foreigners already living in the country, and would undoubtedly be beneficial to Czech society as well.

Now is the time to reflect on the project of circular migration too. The problem is that the offer of voluntary return, either with an already issued exit order or without it, will not be attractive enough if the foreigner realises that the chances of getting to the Czech Republic in future are close to zero. This is currently the highly probable consequence in the case of voluntary return.

The crisis also presents a chance to curtail the influence of job agencies. Interestingly enough, it is not common for a native Czech citizen to be employed by a job agency. There is however an incredibly high number of job agencies involved in the exploitation of foreign workers. The existence of these agencies is explained by the alleged demand of Czech employers for cheap

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<sup>1</sup> The programme was approved by the government in February 2009, after the Czech publication of the commentary.

<sup>2</sup> There were many cases of corruption reported at these embassies.

labour, which also means that many Czech citizens cannot find decently paid work. But the principle of equal remuneration should apply to such a system. It is unacceptable that a foreigner that constantly works overtime still earns significantly less than a Czech employee working in the same position in the same company. However, there is hardly any regulation of job agencies. Such a simple thing as keeping precise records of the agencies' activities and of all the documents that the foreigner signs for the agency would be a positive first step. Ultimately, there is no reason for such a huge number of employment agencies to exist. Once a work visa has been issued, every foreigner should have direct contact with the employer she/he works for. The whole system of lending workers to other employers could be made illegal with reference to foreigners.

A similar approach could apply to the so-called business visas. A foreigner who wants to do business in the Czech Republic should be able to give a detailed description and explanation of his/her business plans. Foreign police should then rigorously check whether this purpose of stay is carried out. Huge co-operatives and complicated limited companies, full of "businessmen at assembly lines and on construction sites", are nothing but the inventions of intermediaries who make huge profits from these schemes. (The word "intermediary" is in this context interchangeable with other words: client, Mafioso, or the manager of the job agency.) An examination of whether a migrant has met the proposed purpose of stay should have been instituted long ago and there is absolutely no reason for these foreigners to be included in the system of green cards, which would correspond to their purpose of stay in the Czech Republic.

The crisis also provides an opportunity to be stricter when dealing with employers. It is not acceptable that well-known construction companies employ foreigners who do not have the necessary permits without facing penalties. Operations which have drawn the attention of the media, such as "Action Residence"<sup>3</sup> or the helicopter operation in Sapa, are very costly and completely unnecessary. It is common for someone from the police to notify the foreigners a few days ahead of the operation. Rigorous sanctions for those employers and job agencies that breach labour-law regulations should have been set up long ago.

The current situation is also an opportunity to find the right balance for the green card project, which should be expanded and not limited<sup>4</sup>. The current abuse of the system, and the frequent problems that foreign workers (be they formally businessmen, co-op members or agency workers) face with intermediaries could be solved not only through voluntary returns and through sanctions on the foreign workers, their employers or job agencies, but also by making the workers eligible to enter the green card project. It is unlikely that migrants, already heavily in debt, will accept the offer to return. In order to make the programme more attractive, the administration should: initiate a

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<sup>3</sup> Editorial note: "Action Residence" consisted of a number of operations which took place in September 2008 in various regions of the Czech Republic and focused on the observance of law on foreigners' residence. Foreign police checked especially those places where foreigners can be found most often (railway and bus stations, workers' dormitories, companies).

<sup>4</sup> Editorial note: Some countries of origin from which many migrants come to the Czech Republic, such as Vietnam or Mongolia, were not included in the green cards project.

protection period; increase the opportunities of getting a green card while staying in the Czech Republic; or give preference to green card applicants from abroad with previous work experience in the Czech Republic or to those who are already integrated here. This would transform the whole system of business visas and agency employment. It is obvious that for many foreigners, a return to their country of origin will be a difficult option to accept, but under present circumstances it appears unavoidable. It is important that the programme is presented in a detailed information campaign, and that it is offered with the option to look for work within a protection period, and a possibility to obtain a green card in the Czech lands. A last incentive could be to offer foreigners the prospect of getting a green card more easily in the future. Of utmost importance, however, is the eradication of the above-mentioned causes of problems for foreigners.

In the long-term, the crisis yet again confirmed that Czech law on the residence of foreigners, though extensive, is confusing and unsuitable for current needs. The foreigners that these laws address have no chance of understanding them. Moreover, the law is constantly being amended in order to close down loop holes and prevent abuses of the system. The result is a never-ending process of amending amendments, such that Czech migration policy has never been truly established. Therefore I would like to urge forward work on a new system of regulations for foreigners, a new system that would make use of the experience of NGOs.

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