

STOP LABOUR EXPLOITATION

A CLOSER LOOK

**LA STRADA
CZECH REPUBLIC**



MICHAL KREBS

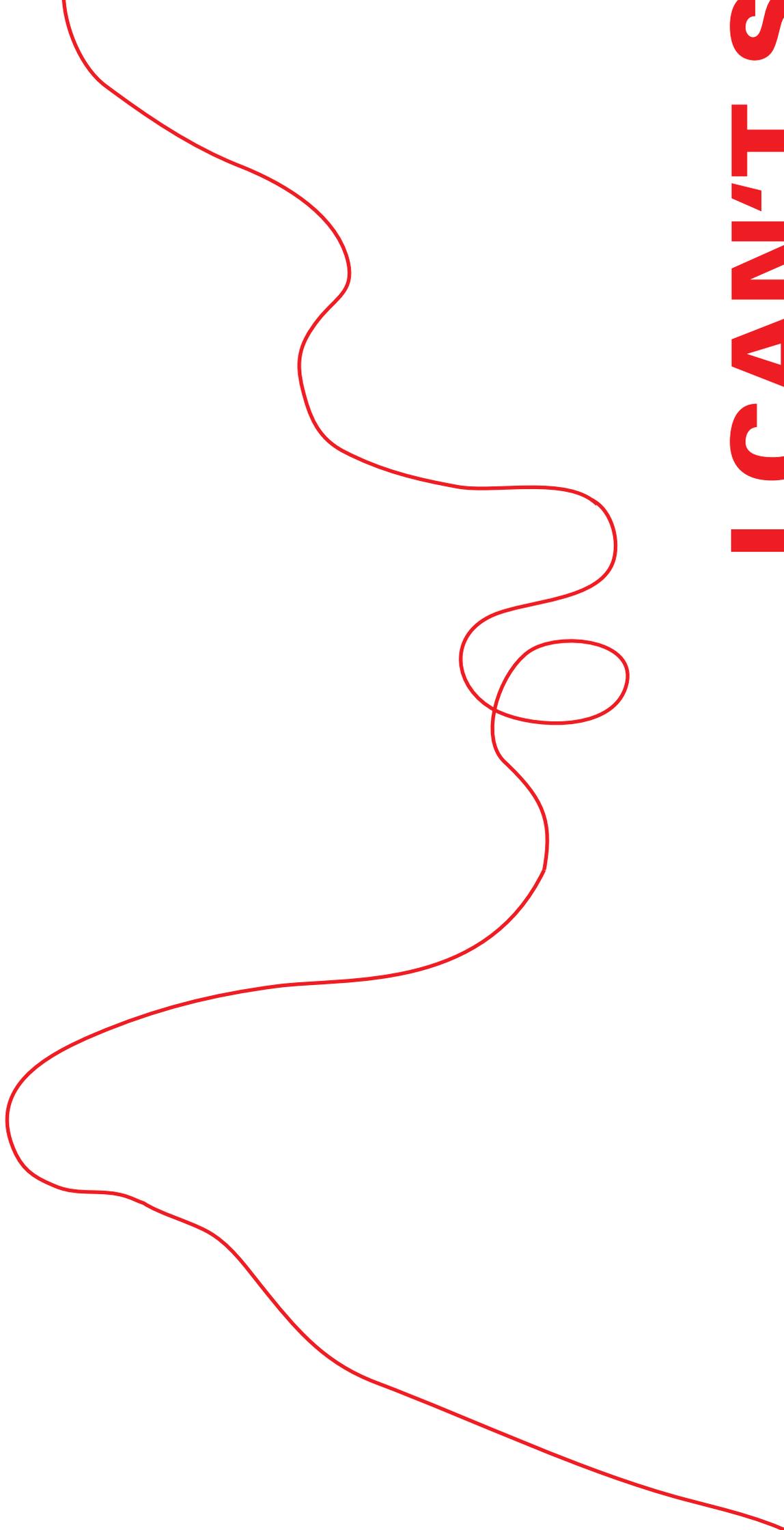
**ANALYSIS OF THE AGENCY
EMPLOYMENT OF THE VIETNAMESE
IN THE CZECH REPUBLIC**

La Strada Czech Republic 2009

Author: Michal Krebs et al.

Translation: Libor Nekula, Katka Čížková

Graphic design: Zuzana Mašínová



RESPONDENT no.23

I CAN'T S

SEE ANYTHING, JUST FOG

G. THERE'S NO WAY OUT...

INTRODUCTION

This report is an output of a research project called Stop Labour Exploitation – a Closer Look financed by the Open Society Fund Praha foundation and a subsidy programme of the Crime Prevention Department of the Ministry of the Interior of the Czech Republic called Human Trafficking Prevention and Helping Human Trafficking Victims. The research was carried out by La Strada Česká republika, o.p.s. (hereinafter La Strada CR) and Klub Hanoi, a civic association, from May to December 2009

Nadace

OPEN SOCIETY FUND PRAHA



**PREVENTION
PAYS!**

**MINISTRY OF THE INTERIOR
OF THE CZECH REPUBLIC**

The research was based and drew on the project called Vietnamese Workers in Czech Factories (2008) in which La Strada CR covered the living and labour conditions of the Vietnamese employed within the system of the Czech job agencies.

During the research in 2008 some forms of exploitation of the Vietnamese and labour migration specifics of these community members were recorded, which had not been described before. At the same time, the Czech labour market started to change substantially due to the global economic crisis in the second half of the year 2008. The decrease in the number of jobs and suspension of work permit renewals resulted in massive dismissals of foreigners who had been temporarily allocated to firms by job agencies.

The research in 2009 aimed at complementing the information in some areas of the respective issue suggested earlier and recording the reaction of the target group to the changed situation during the crisis. Looked into were particularly hypotheses concerning labour recruitment and export from Vietnam, role of the Czech embassy in the process of labour migration from Vietnam to the CR, interconnectedness of the agencies in the home and target countries (Vietnam and CR), strategies of finding work and maintaining a legal residence status on the territory of the CR as well as labour conditions, roles of job agencies and exploitation mechanisms of the Vietnamese during the crisis. The research is based on semi-structured interviews with workers as well as with other persons interested in the respective issue. Being to a certain extent subjective, their experience is complemented by information drawn from relevant specialized studies.

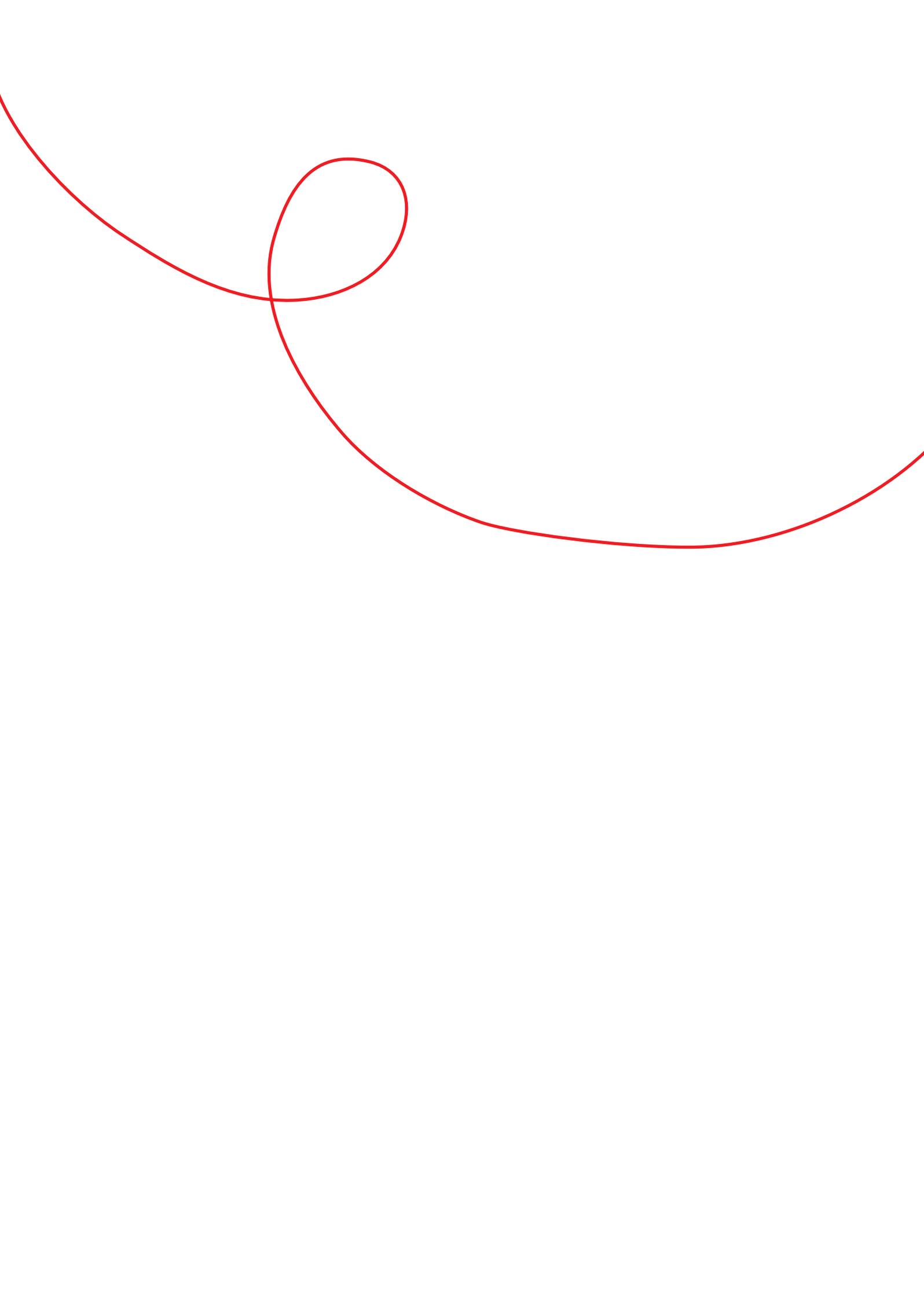
The text should also help improve the provision of social services to Vietnamese migrants who are endangered by labour exploitation and human trafficking, preventing these phenomena linked to the Vietnamese labour migration and agency employment of foreigners in general.



CONTENTS

Framework	9
Situation of Vietnamese workers in 2009 (Šárka Martínková)	11
Field research – agency employment of the Vietnamese during the global economic downturn	14
Research methodology (Jakub Švec)	14
Recruitment in the country of origin	16
Agencies in Vietnam and financing journey to the Czech Republic	21
Czech consulate in Vietnam	27
Agency in the Czech Republic	29
Labour conditions	32
Living conditions	35
Mechanisms and instruments of exploitation during the economic crisis	37
Aspects under private law of the issue of employing foreigners (Lucie Frejková)	44
Summary and recommendations	49
Conclusion	60
Used sources	63

Acknowledgments are expressed to interpreters, cultural intermediaries as well as all other colleagues and Mr. Petr Komers for skilled help on carrying out this research.



FRAMEWORK

The research was carried out based on previous experience of La Strada CR with the issue of human trafficking, forced labour and exploitation. The whole field of agency employment of the Vietnamese workers was therefore primarily considered against the backdrop of this prism. Therefore, we deem it appropriate to first briefly describe this framework as well as some relating acts to which this report refers.

Exploitation, forced labour and human trafficking

In 2004 the amendment to the Penal Law, Section 232a introduced a formulation of “slavery, serfdom, forced labour and other forms of exploitation” referring only to persons trafficked on this account, however, and thus not referring to those “solely” exploited or forced to labour. Primarily, facts of the case concerning human trafficking are to be fulfilled in order to prosecute the perpetrator. However, none of the cases qualified as a criminal act of human trafficking on the account of forced labour, excluding sex industry, has been up to date (as of December 2009) legally decided as human trafficking. Therefore, it is not possible to base the definition of the term forced labour or other forms of exploitation on an opinion of the Supreme Court, either.

As of January 1, 2010 the new Penal Code takes effect (Act No. 40/2009, Coll., hereinafter nPC), whose Section 168 concerning human trafficking introduces some formulation and other partial changes. Against the background of the accomplished research, the obviously most relevant fact is that two new terms were complemented. For the sake of clarity, the terms are printed in italics in the short except from the Act below.

Generally, any behaviour of the perpetrator exploiting the activity of another person can be deemed exploitation. Exploitation is acquiring any unjustified proprietary benefit (material of the Security Policy Department of the Czech Ministry of the Interior, 2004, p. 5)¹.

Forced labour is any labour or service which is extorted from any person under the threat of any punishment and which was not offered by the respective person voluntarily (according to Art. 2 of the Convention on Forced and Compulsory Labour of the International Labour Organisation published in the Collection of Laws of the Czech Republic as no. 506/1990, Coll.). The wording “any labour or service” enables the definition to cover forced prostitution or other involuntarily performed activities in the field of sex industry, too.

Regarding the date on which the research was carried out (year 2009), the wording of Section 232a of the Penal Code effective at that time is indicated. For the sake of comparison, the wording of Section 168 of nPC being in effect since January 1, 2010 is complemented.

The definition of **human trafficking (Section 232a of the Penal Code / Section 168 of the new Penal Code)** contains three essential features describing means, acting and reason:

... a person using violence, a threat of violence or *any other serious harm* or trick or taking advantage of their error, distress or dependency,

forces, engages, hires, entraps, *seduces*, transports, hides the other person, holds the other person back or gives the other person out so that they can be used by *others*

1... http://web.mvcr.cz/archiv2008/rs_atlantic/data/files/stan-232a-tz.pdf

- a) for sexual intercourse or other forms of sexual molestation or abuse, or to *produce a pornographic work*,
- b) *for tissue taking, cell taking or extraction of organ from their body*,
- c) *for service in armed forces*,
- d) for slavery or serfdom or
- e) for forced labour or other forms of exploitation, *or person benefiting from such activities*.

All these three components are to be present in a case qualified as human trafficking. The definition of human trafficking is too complicated so as to be applied to exploitation and forced labour. Although these terms are used, they are not defined in the Penal Code in greater detail.

However, it is beyond dispute that the situation has evolved because before 2004 only human trafficking for the purpose of sexual intercourse (Section 246) was defined as a criminal act. Having been replaced by Section 232a (complemented by human trafficking also for another reason), this Section started a demanding implementation process within the criminal justice system which cannot be considered finished for the time being. The experience with detecting and proving longer-term activities entailing criminal prosecution – human trafficking for the purpose of sexual intercourse – show that this process can last for several years. Several persons have already been lawfully sentenced for human trafficking for the purpose of sexual intercourse. Therefore, it can be expected that the current statutory provisions will be employed by the criminal justice system more efficiently in future.

Selected related legislation

Closely related to the resolved issue and to the employment of foreigners in general are also two new criminal acts indicated in the **Act No. 40/2009, Coll. of the Penal Code**, namely criminal act of assisting an unauthorized residence on the territory of the republic according to Section 341 as well as unauthorized employment of foreigners according to Section 342.

Furthermore, **Act No. 435/2004, Coll. on Employment**, especially Sections 14-17 and 58-66 stipulating rules of mediation of work by job agencies, Sections 85-103 on employment of foreign employees, Sections 125-138 defining competencies of individual supervisory bodies and Sections 139-141 defining administrative delicts in the field of employment.

Furthermore, **Act. No. 262/2006, Coll. of the Penal Code** regulating industrial relationships, namely relationships emerging from dependent employment between employees and employers, legal relationships of a collective nature related to dependent employment and some legal relationships before the emergence of industrial relationships.

Gender in the report

Relating to the gender issue, both female and male genders are used in the text in some cases. To make the text easier to comprehend and regarding the majority of male respondents in the research, only male gender is used in some parts of the text. However, this does not mean that this situation cannot concern women in the role of migrants, intermediaries etc. as well.

SITUATION OF THE VIETNAMESE WORKERS IN 2009

(Šárka Martínková)

According to the data of the Czech Statistical Office as of July 31, 2009, 61 998 Vietnamese live in the Czech Republic having a right to permanent (35 402 persons) or long-term residence (25 596 persons).² Out of that, almost 20 thousand arrived only in the past two years at the time of a high demand for cheap labour in the Czech industry. Its most often sources were job agencies, which consequently reduced operating costs of the companies otherwise linked to direct employment. The interest in work and earnings in the Czech Republic on the part of foreigners from the East was also considerable. With regard to the lacking knowledge of the Czech language as well as setting, the intermediation of work was therefore practically the only possible way to get a job. Both in Vietnam and the Czech Republic a whole range of agencies emerged mediating the journey and job in the Czech Republic – namely official ones, e.g. registered at the Ministry of Labour and War Invalids of the Vietnamese Socialist Republic (the export of the cheap labour abroad is an open policy of the Vietnamese government, which thereby combats high unemployment), but also unofficial and often unreliable ones which only took advantage of the lacking knowledge and naivety of many Vietnamese, based on the promise of high earnings and distorted information about the CR.

The Vietnamese migrants have paid both official mediatory agencies and unofficial firms or individuals amounts reaching up to 14 000 USD for intermediation of work in the CR. They have thus indebted themselves immensely, owing their distant relatives, banks, perhaps usurers. The most common form of a loan has been a lien on a plot or an own house based on a letter of lien called “so do”.³ The desire of the Vietnamese to travel to the CR to work (and to the West as such) is thereby understandable. All Vietnamese living abroad make an impression of successful and rich entrepreneurs when visiting Vietnam. Moreover, the Vietnamese workers coming to the CR at the time of the economic upswing were thanks to their work effort (overtime hours, work at night etc.) actually able to earn money and pay the debt back (however, it needs to be said that the amount for the intermediation has been growing gradually), which has spread very fast in Vietnam.

At the same time, mediatory agencies which have achieved significant profits importing labour from Vietnam have used this. Some of them recruited workers in the same manner even at the time when there was already no work in the CR due to the global economic downturn. The agencies’ activity in Vietnam ended with the departure of the workers. Regarding the following matters, partner agencies or individual interpreters living in the CR were referred to. Vietnamese migrants therefore arrived in the CR with over-high expectations and often without a guarantee that they would actually get the promised job, without the safety of a stable pay, housing as well as residence registration and at the same time without the knowledge of the language and the setting, without knowing Czech legislation and ensuing rights and obligations.⁴

2...According to the Statistical Office <http://www.czso.cz/>

3...The loan is said to have an interest of approx. 1.2 – 1.5% and the amortisation schedule determines a payment every 3 months; if the client does not earn money, their family in Vietnam have to pay interest for them. For the sake of clarity: the usual amount which the bank provides to the client via “so do” reportedly accounts for approx. 20 – 30 million VND (e.g. converted 20-30 000 CZK). Only when a newly built house is concerned can a bank provide a higher loan, e.g. amounting to 50 million VND. Therefore, those Vietnamese interested in jobs abroad often had to build houses on more plots so that the acquired cash reached the required amount for the intermediation.

4...During 2008 the Vietnamese government determined that the export of Vietnamese workers to the CR be suspended due to the economic downturn and the Czech embassy in Hanoi ceased to issue work visa. However, the Vietnamese migrants to the CR continued to arrive in the CR using business visa. After the issuance of business visa was stopped they continued to arrive with study visa, even though the holders expected to start to work as workers in factories. The given limitations only resulted in the increase in the price of intermediation.

Prospective workers ended up in hostels or flats rented by intermediaries at the time when the lack of jobs started to become evident on the labour market. However, they did not start to work. The vast increase in the number of arriving Vietnamese, usually from the poorly educated class living in rural Vietnam, and their absolutely lacking preparedness for a different culture of the host country have soon created gloomy mood in the Vietnamese community as such. The worst crisis arose during the winter in 2008 and 2009. The reduction in production and efficiency measures of companies primarily resulted in a large-scale dismissal of agency employees. Consequently, thousands of Vietnamese lost their jobs immediately; they ended up without any means as well as accommodation which were linked to the respective job. Considering the fact that the newcomers from Vietnam have had no other support in the CR, general chaos broke out in industrial centres with large factories (Plzeň, Mladá Boleslav, etc.).

The original established members of the Vietnamese community have practically got into an ambivalent situation. On the one hand, they saw that the influx of the unprepared fellow Vietnamese “damages their reputation” in the mainstream society, on the other hand, they felt a certain solidarity with them. At the time of the largest dismissals, the often proclaimed self-sufficiency of the Vietnamese community in the CR has demonstrated itself. The Vietnamese managed to organise humanitarian aid for dismissed fellow Vietnamese, which according to one of the organisers helped up to 7 thousand people live through the winter. Vietnamese workers who had arrived to earn money considered the purchase of winter clothing a secondary matter. Equally, they did not expect their dismissal, loss of earnings even for the living minimum during the winter which set in. The Vietnamese Women Association, the Buddhist Association and the College of Vietnamese Evangelists therefore organised financial collections for winter clothing and food for dismissed workers among fellow Vietnamese. Many times, they were dispatched by car to places where there was the highest number of the dismissed. Food for free was provided in a Vietnamese wholesale centre Sapa as well as in a Buddhist temple in Prague, etc.

In February 2009 the *Hospodářské noviny* daily wrote: “*Agency employment has seen the worst times since the years of its existence in the CR. Foreign workers are not registered at job centres, therefore, there is no statistics on how many exactly have lost a job, where they are today and how they make their living. According to the data available, up to 30 thousand agency workers lost their jobs in factories and abandoned the employment relationship with agencies without trace only from November last year until the end of January. Agencies’ revenues have also slumped proportionally.*”⁵ The responsibility for not complying with the obligations of the contract, which had promised work in the CR to the Vietnamese immigrants, was, however, accepted only by official agencies in Vietnam. According to the representatives of the community, many were also forced to bear the consequences in form of compensation. Those unofficial reject any responsibility, however, and identify the economic crisis as the main culprit. Moreover, a number of Vietnamese workers have arrived without any written contracts and consider the commitment on the part of the agency fulfilled only on the grounds that the agency has brought them to the CR.

While many job agencies went bust due to the lack of jobs, others took the advantage of the desperate situation of the dismissed workers and started doing business with jobs. However, the “entry fee” for the respective work position did not guarantee that the applicant would not lose the job in some time again. It only promoted the policy of beneficial employment via agencies and personal benefits of interpreters and employers of HR departments of the respective companies who could profit from the recruitment of workers only for several hours a day, for instance, and wait for a minor error so that they could be replaced by others who, again, would pay for the job. Depending on the wages offered, the amount paid for a job could reach up to 7 000 CZK.

5...http://kariera.ihned.cz/1-10052830-34727030-q00000_detail-b7

For those Vietnamese newcomers, who arrived in the CR with a work visa, the job loss made it moreover necessary to legalise their residence because when losing a job the purpose as well as the residence permit expire due to the interconnectedness of the Act on the Residence of Foreigners and the Employment Act. Since there were no vacant jobs, the Vietnamese immigrants legalised their residence by obtaining a trade permit although they actually do not run any business. The financial costs linked to the business authorisation, i.e. social security and health insurance payments, became yet another financial burden of already indebted Vietnamese without a stable job and sufficient income covering only the living minimum. Lacking language skills and knowledge of the Czech setting, newcomers depend on the paid services of interpreters, intermediaries or agencies as well as information provided by them when seeing to any residence formalities.

Documents and formalities of newcomers and those not knowing the Czech setting, linked to the residence in the CR, are seen to by Vietnamese interpreters using mediatory service “dich vu” for considerable financial amounts.⁶ Persons taking advantage of the deplorable situation of their fellow citizens represent a specific group within the Vietnamese community. They are aware of the fact that migrants have immensely indebted their families for the journey here, they have no other choice than to hope that the crisis will be over and factories will recruit back. The chaotic situation in the winter season was ameliorated to some extent by seasonal jobs – predominantly in construction sites and agriculture. However, the jobs are mostly assigned by Vietnamese intermediaries again and the worker cannot be absolutely certain that they will be paid for their work. Work without a contract is common because Vietnamese deem an oral conclusion of the agreement natural. Some accept work solely for housing and food even voluntarily because they are thankful for the support provided. Mainly dismissed female workers have often ended up as helpers in Vietnamese households and their pay can only be speculated about.

Overcoming the lamentable situation in the CR (or in neighbouring countries if they offer the much desired job) is, however, considered a much more acceptable option by Vietnamese migrants, who had arrived in the past two years, than to return back to Vietnam. Their enormous debt makes it virtually impossible to be paid back in the circumstances of their homeland. Should the debt not be paid back, the broad family are at risk of losing their home – if the bank had to impose a lien on more plots for the respective individual to gain a required financial amount for the journey to the CR. At the same time, pressure is put on them by their families who force their “envoy” to endure this period and simultaneously try to support them financially for this sake, which means generating additional debt, however.

However, the representatives of the Vietnamese community do not expect this winter to be as bad as the last one. Indeed, the Vietnamese newcomers have already gained certain experience over the time of their residence in the CR. Considering the fact that most of them have no family ties in our country, they lean on social networks which they have created here – be it based on the origin in the same region (Vietnamese stick together based on the location where they come from – this affiliation to the same province becomes a natural pledge of help) or coincidental acquaintance. They call each other on where a job might be possible, they help each other with a place to stay and food. Currently, their future plans are clear: the only goal is to get a stable and paid job enabling them to pay back the debt and interest to the bank. Therefore, **only a small percentage of Vietnamese made use of the Programme of Voluntary Returns,**⁷ developed by the Czech Ministry of the Interior to help foreign workers **dismissed due to the economic downturn.**

6...For the sake of clarity: the renewal of the business visa after a year of residence costs approx. 25 000 CZK via “dich vu”, a repeated renewal when social security and health insurance are not being paid amounts up to 70 000 CZK. The offices usually charge 500 CZK for an hour of “dich vu” consultation, the amount for other services depends on the price offer of the respective intermediary.

7...<http://www.mvcr.cz/clanek/migrace-novy-clanek-890951.aspx?q=Y2hudW09NQ%3d%3d>

FIELD RESEARCH – AGENCY EMPLOYMENT OF THE VIETNAMESE DURING THE GLOBAL ECONOMIC DOWNTURN

RESEARCH METHODOLOGY

(Jakub Švec)

The research is based and draws on the project called *Vietnamese Workers in Czech Factories*, which was terminated in 2008 and described the living and labour conditions of Vietnamese employed within the Czech job agencies system.

The current research aimed at complementing the information in some previously indicated areas of the respective issue as well as recording the reaction of the target group to the changed situation (which was very marked in the past period).

Firstly, the research was predominantly aimed at describing the agency employment and recruitment of employees in Vietnam as well as cooperation and interconnectedness of Czech and Vietnamese agencies.

Secondly, the main aim was to cover the possible reaction of Vietnamese migrants to the worsened economic situation (which began in early 2008 in the CR) and to a certain tightening of the visa regime (during the monitored period, the issuance of work and business visas at the Czech embassy in Hanoi was temporarily suspended). It was assumed that alternative strategies for obtaining visas or residence permits might occur or strengthen, the proportion of foreigners working illegally, losing their job, working in immigrant (enclosed) sector of the economy might increase, etc., and that social issues and risk of criminalization and exploitation might worsen. For the same reasons, the strategies of job agencies might have changed as well.

3 main data sources were defined for the research as such:

- Interviews with Vietnamese who are or were employed by a job agency in the Czech Republic
- Interviews with the representatives of job agencies employing Vietnamese
- Structured description of the situation in Vietnam by informants

Considering the research subject as well as its target group, a quantitative method was selected, namely semi-structured interviews.

The total of 30 interviews (i.e. no. 1-30) and 1 complementary (incomplete) interview were carried out with the Vietnamese (in the first step of the research). The respondents were selected for the interview and approached at hostels and marketplaces, and 20 interviews took place in Prague and 10 in other Czech cities.

For a sufficient scale of information, approximately 1/3 of the sample is represented by women (however, only 13.3 % could be gained), and 1/3 of those being unemployed at that time (the research sample contained 36.7 % of the unemployed). Other rates – excluding places where interviews took place – were not determined.

These interviews were structured covering the following areas:

- Demographic data, support for the respondent in Vietnam
- Procedure before the travel to the CR
- Travel to the CR and employment in the CR (or job loss)

- Social setting
- Access to services and rights

Each interview was carried out in Vietnamese with trained interpreters, with a researcher being present. The interviews were recorded; the recordings were later transcribed, anonymised and translated by the interpreters. The data gained in this step of research were further processed by an academic software LISp-Miner ver. 11.04.01 by means of procedure called 4ftMiner. The researchers also noted down field information or information concerning the setting or circumstances of the interview.

In the second step of the research, 1 interview was carried out with a representative of a job agency which employs Vietnamese in the Czech Republic. The interview was in Czech, it was recorded and the subsequent transcription was anonymised.

Equally, the interview with agencies was structured covering the following areas:

- Information on agency, description of its activity
- Experience with employment of foreigners (Vietnamese)
- Cooperation with Vietnamese agencies
- Scope of services provided
- Role of agencies on the labour market
- Impacts of the economic downturn

The third source of data was a structured description of relevant areas compiled by the informant from Vietnam. Particular interest was centred on the functioning of the Czech Embassy in Vietnam, the functioning of job agencies in Vietnam, recruitment of employees as well as awareness of the Czech Republic as a target country of labour migration. These areas were also outlined as required and the informant obtained data from interviews with locals without any further methodological instructions.

On collecting the information in Vietnam, the informant surveyed 7 persons (VN 1 – 7), 5 men and 2 women. All these persons are acquainted with the issue of labour migration of Vietnamese to the CR, be it based on their own experience (i.e. employee of a Vietnamese state-owned company exporting labour) or based on personal contacts in both countries (i.e. former trainee and student in the Czechoslovak Socialist Republic and CR living since 1980's in Vietnam and the CR, alternately). The survey was carried out by means of a questionnaire with open questions both in Czech and Vietnamese.

The research complied with ethical principles based on internationally enshrined principles⁸ on all levels as well as principles of La Strada CR. Specifically, the following was concerned:

- Obtaining an informed consent of all surveyed
- Safety of those surveyed as well as researchers and interpreters both during and after the interview
- Sensitive surveying (do-no-harm questioning), offer of help
- Consequent data anonymising and confidentiality of the research team
- Continuous consideration of ethical dilemmas

8...Guide to Ethic and Human Rights in Counter Trafficking. United Nations Inter-Agency Project On Human Trafficking. Bangkok, 2008.

RECRUITMENT IN THE COUNTRY OF ORIGIN

During the research in 2008 some broader questions were selected for a closer investigation. Primarily, the motivation of workers to travel to the CR was concerned. As has resulted from the interviews carried out last year (2008), recruitment campaigns and information disseminated not only by agencies but also by persons who have already worked or work on the Czech territory, have played an important role shaping it. Another aspect was the background of the people they came from (for the sake of simplicity, a town-village dichotomy was defined) and their socio-economic status.

Socio-economic status

As opposed to 2008, more persons from rural areas (more than 63%) were represented among the respondents. The Vietnamese Central Institute of Economic Management (CIEM) quoted a gradual decrease in the share of persons from the rural areas on the labour migration in its statistics; however, they still substantially outnumber the persons from cities.⁹ It can be assumed that their awareness of the circumstances abroad is probably lower than that of urban inhabitants. To explain their starting position, one of the cooperating cultural intermediaries was asked to briefly describe the life in a Vietnamese village: *“Most of them work in the fields, therefore they wake up early, at about four a.m., and they feed the animals, cook warm breakfast, eat and go to the field to work. Since it is hot at noon and they cannot work, they return home for lunch, have lunch, then siesta, women rest on bed and chat, men drink green tea and smoke water pipes. In the afternoon, they go to the field again and work there. When there is little work in the fields out of the season, they spent most of the time at home doing housework ... Their awareness of the world is very low, always what they hear. “Đi tây” (to the West) means wealth to them”*.

Based on her experience, she adds: *“Vietnamese living in the countryside are very truthful, they have a simple way of thinking, are affable and confiding, what they say, counts. Therefore, they can be easily abused, when people from the city come, they believe them everything easily. They say to themselves, they are people who have experienced more than me, they have more money, they can earn money, and therefore, they are more capable and know more things. When an intermediary comes to the village about whom one says he does wonders, a whole village admires him.”*

Precisely this is often taken advantage of by the agencies and intermediaries operating in Vietnam on an illegal basis without a licence. These intermediaries visit households promising a profitable work abroad¹⁰. In doing so, they rely on the fact that even basic information about the real job opportunities abroad is mostly not available in the rural areas.

The awareness of the respondents surveyed before departure was generally low (no remarkable development as opposed to 2008 has been observed here). Especially regarding the access to information and the ability to work with it, they have differed markedly depending on whether they come from a village or town. While some have heard of labour conditions in the CR for the first time from the intermediaries: *“The intermediaries came to our village and offered it to me, and so I went”* (resp. no. 1), others tried actively to obtain information from various sources: *“From friends who know the CR a little, on the Internet, I was looking for information where possible ...”*. Most of them have indicated, however, that they have had a rather general idea about the CR as a stable and friendly country. The respondent no. 4 said the following about

9...Nguyen Minh Thao, CIEM, Vietnam: *Migration, remittances, and economic development: Case of Vietnam*. p. 20.
Source: <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>. (14.1.2010)

10...Dan Nguyen Anh, ILO: *Labour Migration from Viet Nam: Issues of Policy and practice*. p. 20.
Source: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_099172.pdf. (12.1.2010)

the lacking information about the CR: *“...If I had had enough information about such life, I would not have gone ...if the media talked about it more and the information spread, I am convinced that only few would feel like going, however, the firms have provided almost no information.”*

One of the questions put to the respondents in Vietnam concerned the way the Vietnamese living in Vietnam perceive the Czech Republic compared to other countries to which they travel to work. The answers of respondents were on the whole positive. Two answers (VN 3 and VN 4) mention that the CR is a peaceful and tranquil country, two of them see the conclusive proof of the positive perception of the CR in the fact that Vietnamese are interested in work in this country (VN 2 and VN 3): *“... The proof is that once there was a long queue in front of the Czech Embassy to apply for work visa.”* (VN2).

According to the informant, the positive image of the CR for the elder Vietnamese (VN 5) results from the good relations of both countries in the past: *“... The Czech Republic is perceived as the former Czechoslovakia, a country, towards which Vietnamese have great sympathy and trust”. VN 7 says that: “The CR, the former Czechoslovakia, has accepted many workers from Vietnam for training and practical experience in the past. Alone for this reason it prevails in the awareness of common Vietnamese and also as a country of Eska bicycles and Babeta and Jawa motorcycles. Czechoslovakia continues to attract many of those who want to work abroad. I think that when they are to choose between the CR and countries like Indonesia, Malaysia and Singapore, they prefer to choose the CR.”* VN 6 is said to have compared with other countries (Malaysia, Korea, Katar...) where Vietnamese currently travel to work. However, he explains the greater appeal of the CR rather as a consequence of insufficient awareness of the common Vietnamese, for whom the CR is one of the European countries. Alone this they find attractive.

On the contrary, the reaction of the respondent no. 24 living in the CR since 2007 was as follows: *“I don't know, well, I meet people like me here and when they compare they say that it may be better to choose a different country, for example Korea. Reportedly, there's more work and a better pay.”*

Recruitment campaigns and the role of the Vietnamese state

The informant also asked the respondents in Vietnam a question regarding the objectivity of information about work in the CR which is provided to the Vietnamese workers. One of the respondents is said to have briefly answered: *“No”* (= there is no objective information). Others (VN 2, VN 6 and VN 7) have directly blamed the mediatory agencies that they are not interested in informing objectively: *“There is no objective information at all. Most agencies distort the information on purpose or they don't provide the workers with even the most basic information.”* (VN 6) *“The information – the information about the wages and other conditions – is mainly supplied by the intermediary agency. As some agencies were established to rob the job applicants, they usually provide more optimistic information than what the reality is. With the applicants longing for well-paid jobs, they easily stop being cautious and let themselves be tricked,”* (VN 2).

Another respondent (VN 7) confirms the information given by most respondents in the CR: *“The Vietnamese are informed about the wages, but this is information about gross wages, no one tells them that social security and health insurance as well as income tax will be deducted. Sometimes, money for housing must be deducted from the amount as well.”* And he adds: *“It seems as if nobody were interested in the workers' conditions, even themselves. Because they think that if they travel abroad to work, the conditions there will be better than at home anyway, alone for the reason that it is a foreign country.”*

The respondent VN 6 answered the question by whom and how the information about the CR in Vietnam is disseminated as follows: *“Mostly mediatory agencies and most importantly, they are distorting the information*

and they don't provide the job seekers with complete information.” And the respondent VN 7 adds: “Paradoxically, it is not the Czech Embassy or Czech firms which would be trying to inform about the CR, but Vietnamese entrepreneurs and individuals. However, the amount of information about the CR is small and reaches few people. There is no Czech office providing any information. The Vietnamese look for little information about a country where they want to go working. Their main interest is that they have enough money after they return back home when paying all expenses linked to the journey.” The experience of the respondent VN 3 is that the information mostly spreads as follows: “Mainly orally, from various people.”

Several respondents surveyed in the CR talked about media campaigns (television, press) and recruitment campaigns organised by agencies in Vietnam. The existence of these campaigns was at the same time confirmed by respondents from Vietnam. However, only two out of them were willing to answer this question and the third only noted that: “The workers usually use the agencies themselves because they need them,” (VN 2). Respondent VN 6: “They have advertised officially everywhere where it was possible, even in the streets or on TV, to recruit workers who would go to the CR or they have exploited the network of personal relationships. Currently (development during the crisis), so many people will not be attracted, however, because common people do not trust them much anymore.”

The Vietnamese government has promoted labour migration in the long term – Vietnam started to export labour in a targeted way in the early 1980s.¹¹ “As far as I know the Vietnamese government has long supported the export of labour, not only over the past years,” the respondent VN 6 indicated. And others surveyed in Vietnam illustrate this in their testimonies as well: “The Vietnamese government encourages common people to work abroad,” (VN 7). “The Vietnamese government promotes the export of labour because they are trying to reduce the unemployment rate this way,” (VN 2).

At the same time, one of the respondents (resp. no. 6) of the research also indicated that the recruitment was in her case organised by an official government institution: “The employees of the municipality came and announced recruitment for work abroad. The employees themselves recruited, we did not pass through any intermediarity. The employees announced it and we registered ourselves at the local job centre (comment of the interpreter: “so thuong bing va lao dong” is a government body in smaller municipalities falling under the Vietnamese Ministry of Labour)”. In the 1990s Vietnam, the Department of the Foreign Labour Management was established at the Ministry of Labour, War Invalids and Social Affairs in order to supervise the labour export¹².

Despite the fact that Vietnam has a fairly long tradition of labour export and there is a body supervising this process, it is allegedly common that campaigns of agencies are broadcast by the media indicating false information, however. Even the conditions of agency contracts are often not complied with. This state of affairs is taken into account also in the document by the International Labour Organisation (hereinafter ILO)¹³ stating that despite strengthening the central management of labour export and efforts to develop rights and obligations of parties involved, the governmental plan and results of these measures diverge.

The respondent VN 7 further commented on the situation surrounding the labour export as follows: “The criteria of the recruitment for work abroad are not elaborated enough yet. Therefore, when it happens that someone loses their job, for instance, or the work period in the country where the worker wants to travel turns out

11...Nguyen Minh Thao, CIEM, Vietnam: *Migration, remittances, and economic development: Case of Vietnam*. p. 10. Source: <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>. (12.1.2010)

12...Nguyen Minh Thao, CIEM, Vietnam: *Migration, remittances, and economic development: Case of Vietnam*. p. 11. Source: <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>. (12.1.2010)

13...Dan Nguyen Anh, ILO: *Labour Migration from Viet Nam: Issues of Policy and practice*. p.20. Source: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_099172.pdf. (12.1.2010)

to be shorter compared to that to which the mediatory agency has committed itself, when everything doesn't run smoothly, then the worker is the one most affected." And then the respondent adds the following to the last sentence: "As far as I know, based on the law the mediatory agencies in Vietnam shall commit themselves to securing a job for the worker abroad for a minimum of three years, however, the CR does not grant a work permit exceeding 1 year, even though it can be renewed later."

The labour export is regulated by an act from 2006 aiming at formalising the process of labour migration abroad. This act defines rights and obligations of all entities which participate in the labour recruitment and export. Among others, it allows the local agencies to expand so that they can better meet the requirements of foreign partners, it obliges the workers to undergo language, cultural and specialized training and also includes sanctions for entities (including workers) breaching the concluded contract. According to ILO, the sole adoption of this act does not suffice. **It is necessary to reduce high costs linked to migration and do away with fraudulent activities and risks for workers**, above all those poor. The experience of the several past years has obviously shown that the implementation of these measures remains disputable and can be a reason for worries¹⁴.

This act is for instance also linked to the fact that **some of the workers in the CR have a deposit indicated in a contract with a Vietnamese agency** (usually amounting to 1 000 - 2 000 USD), **which can be paid back after having worked for three years in the CR.** "We have one passbook amounting to 1 000 USD. When we return, when the contract expires after three years, we will go back and receive 1 000 USD," indicated respondent no. 6, whose travel to the CR was organised by a Vietnamese government institution. This respondent paid 8 500 USD for the intermediation of job and travel to the CR. In order to obtain this amount, her family had to provide a state bank with several plot contracts for a lien to be imposed. Or: "I have paid a deposit accounting for 1 800 dollars so that the workers do not run away and work somewhere on their own. ... I was told after three years but I think now that they will explain it again somehow so that they do not give it back to me," (respondent no. 8).

The respondent no.11 also talked about the fact that he paid a deposit on the condition that: "... I may not return during these three years." What would he do, if he lost his job? He answered as follows: "I would have to ask the interpreter to bring me to the entrepreneur." In such a case, the deposit absolutely loses sense as an insurance to maintain work discipline and prevent workers from fluctuating (as some interested persons try to explain it), becoming an instrument of coercion or purposeless trap. For instance, it is difficult to expect that a person who arrived in the CR with a work visa (and with a promise of work for three years) will be able to really run a business after the purpose of residence has been changed. Rather, they will enter one of the systems circumventing the Employment Act and working based on a covert employment relationship possibly without even being aware of the illegal nature of this activity.

Thus, it seems that people with an insufficient access to objective information (which is not provided even by the Czech party) are attracted to work abroad by campaigns and that this dubious recruitment obviously got out of control of the Vietnamese state. However, the Vietnamese state has set up some rules which can bring those using these services into a situation when they are forced to stay in the CR.

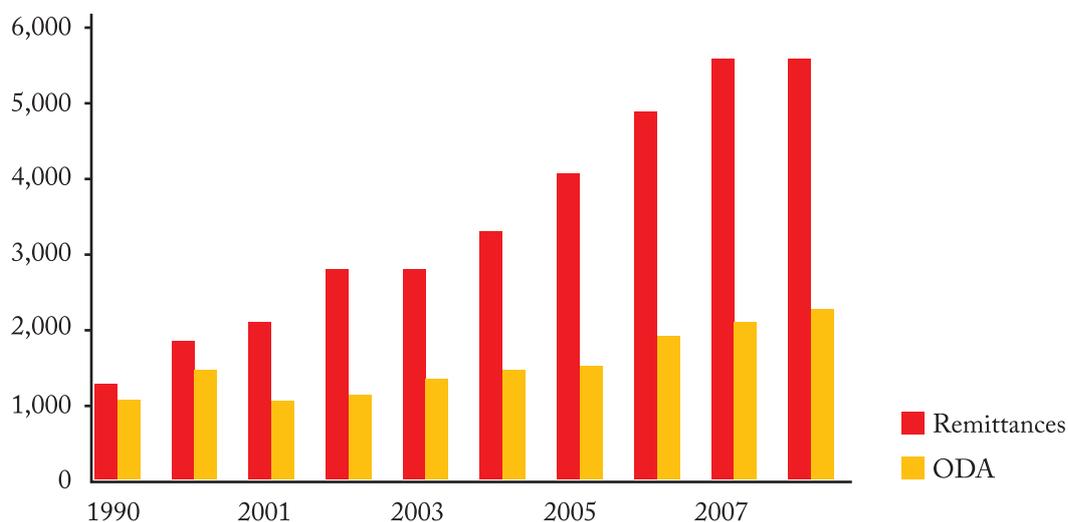
The outlook of a foreign experience and better opportunities as well as a better income encourage people to migrate. They expect that the hardship will be more than compensated by profiting from migration. Regarding the high underemployment, the labour export is actively promoted by the government following more goals – alleviating domestic unemployment, increasing the influx of money from money transfers from

14...Dan Nguyen Anh, ILO: Labour Migration from Viet Nam: Issues of Policy and practice. p. 20. Source: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_099172.pdf. (12.1.2010)

abroad (remittances) as well as increasing national income. This is how the situation is described in a study by the Central Institute of Economic Management (CIEM)¹⁵.

The undisputable benefit of remittances for Vietnam or directly for its inhabitants is proven by a following graph comparing them with the official amount of the development aid (ODA). For instance, the sum of registered remittances in 2008 exceeded the amount of development aid by 3.3 billion USD.

Graph 1¹⁶:



Also, ILO is aware of this fact stating in its study that: *“While the economic value of the labour export is confirmed,” but at the same time “predominantly, migration takes place with various intermediaries such as labour recruiters, consultants, agents and civil servants turning the migration process into an expensive and dangerous enterprise”*¹⁷. Therefore, ILO continues to recommend that civil society, non-governmental organisations and communities of migrating workers including their families mobilise. They should supervise the whole process and ensure transparent as well as efficient labour export. However, ILO assumes that setting up a legal framework for cooperation of these partners will be essential (ibid.).

Promises on recruitment in Vietnam

Like in 2008 (see Krebs, Pechová 2008) the researchers have learned in the interviews that the conditions on arrival in the CR often did not correspond with the promises given by an agency or intermediary during recruitment in Vietnam. In other words, the promises were in many cases formulated so vaguely so that many workers’ imaginations were unreal. In this respect, the situation has not changed much, only the issue of insecurity to find work was added, especially for those arriving with business visa.

The ILO study also calls attention to this issue stating that mediatory agencies often do not meet their obligation to inform the workers about the actual situation in host countries as well as about the possible help and compensation in case of premature return. Furthermore, it mentions that even trainings before

15...Nguyen Minh Thao, CIEM, Vietnam: *Migration, remittances, and economic development: Case of Vietnam*. p. 9.
Source: <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>. (13.1.2010)

16...Nguyen Minh Thao, CIEM, Vietnam: *Migration, remittances, and economic development: Case of Vietnam*. p. 17.
Source: <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>. (13.1.2010)

17...Dan Nguyen Anh, ILO: *Labour Migration from Viet Nam: Issues of Policy and practice*. p. 22.
Source: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_099172.pdf. (13.1.2010)

departure are not adjusted to the needs of migrating workers and do not include information on the rights and obligations of the employers.¹⁸

Respondent no. 23 relatively accurately expressed the whole situation regarding the expectations with which most respondents arrived in the CR: *“Well, it differs certainly a lot. It differs in all aspects, in the life here, people, at work; everything is different than I have imagined it. The Vietnamese in Vietnam could not actually imagine what life here is like. For example, when one earns 15 thousand korunas a month, then they don’t know at all that at the same time they have to pay other stuff such as insurance, tax for that month. People in Vietnam think that when they earn 15 thousand that this is net income, actually 800 dollars. And they think that they will spend only 200 dollars and the remaining 600 dollars can be sent home. But the reality is totally different. Actually, when they save, they will have approximately 200 dollars ...”*

Regarding the contractual settlement of promised conditions, some of the surveyed had an agency contract. In the CR they signed a new agency contract (more than 43 % in Czech), however, in case of persons with business visa there was often just an oral agreement with an intermediary. Respondent no. 6, whose travel to the CR was organised by a Vietnamese government institution, indicated for instance that she signed the contract in Vietnam but: *“... I was promised that when at the airport I would receive one contract. Since I signed two contracts, one for the firm, I will receive the other one ... Eventually, we were in a hurry and didn’t obtain any contract. When we arrived here, we don’t have any proof for us ...”*

AGENCIES IN VIETNAM AND FINANCING JOURNEY TO THE CZECH REPUBLIC

In the case of 66.7 % of the respondents the agency mediated the travel to the CR, 33.3 % stated that another intermediary was in place (predominantly a natural person who knew how to arrange for the necessary documents). Most of them paid more than 7 000 USD for the intermediation of the journey to the CR. 53.3 % of all respondents paid from 7 001 to 11 000 USD and 13.3 % an amount of 11 001 - 15 000 USD.

However, the investigated sample did not confirm the hypothesis about the continuous increase in the amount of payments for the intermediation of travel to the CR over the past three years. For the sake of clarity, this output has been kept in the form of a table:

The percentage refers to the respective category of the indicator – i.e. time of arrival in the CR. For instance, lines 2 and 3 can be interpreted to the effect that 2 respondents arrived in the CR in the first half of 2007, 1 of them (thus 50%) paid up to 7 000 USD for the journey and the other one (e.g. also 50%) paid from 7 001 to 11 000 USD.

Arrival in the CR	Payment for the intermediation of the journey (USD)	Number of respondents	in %
before 2007	up to 7 000 USD	1	100,0 %
2007 (1st half of year)	up to 7 000 USD	1	50,0 %
2007 (1st half of year)	7001 - 11 000 USD	1	50,0 %
2007 (2nd half of year)	up to 7 000 USD	2	100,0 %
2008 (1st half of year)	up to 7 000 USD	2	16,7 %
2008 (1st half of year)	7001 - 11 000 USD	10	83,3 %
2008 (2nd half of year)	up to 7 000 USD	1	50,0 %
2008 (2nd half of year)	11 001 - 15 000 USD	1	50,0 %

18...Dan Nguyen Anh, ILO: *Labour Migration from Viet Nam: Issues of Policy and practice*. p. 19.

Source: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_099172.pdf. (12.1.2010)

Arrival in the CR	Payment for the intermediation of the journey (USD)	Number of respondents	in %
2009 (1st half of year)	7001 - 11 000 USD	1	50,0 %
2009 (1st half of year)	unknown	1	50,0 %
unknown	up to 7 000 USD	1	11,1 %
unknown	7001 - 11 000 USD	4	44,4 %
unknown	11 001 - 15 000 USD	3	33,3 %
unknown	unknown	1	11,1 %

Based on the investigated sample, the table above does not confirm the expressed hypothesis about the continuous temporal increase in the amount of payments for the mediation of journey. Significant differences between the fees for work and business visa were not ascertained. **Therefore, it can be assumed that the difference between payments is rather due to the rates of individual mediatory entities than continuous temporal development.** However, also changes of the exchange rate of the dollar need to be taken into account which could, in consequence, increase the final price.

Role of bank institutions and the Vietnamese state

During the research in 2008, the role of the bank institutions and the Vietnamese state in the process of financing labour export was looked into. Since the usual income in Vietnam does not enable most prospective labour migrants to save up money for the journey to the CR. The gross wages of an unskilled worker in Vietnam amounts to approximately 100 USD monthly¹⁹ and in case of persons whose financial situation was a little better (e.g. respondent no. 8 stated: *“I worked as a driver for X. It is a demanding work ... I earned approximately 4 to 5 thousand²⁰ a month.”*) it can be assumed as well that they had to borrow at least a part of the money for the journey to the CR. The respondent no. 2, who has lived in the CR since 1999, described it as follows: *“... Earlier, the employee could not have 100 million dong²¹. I had only 30 million and the rest is a loan from the family and friends ... earlier, it took a year to pay it back but this is the way it used to be then. It was easy to make a living as well as pay the debt back. Not like now ...”*

Thus, the situation is following. People wanting to travel to the CR to work (or abroad in general), mostly have to provide their real estate as a lien to a bank by means of a “so do” letter of lien so that they get a loan to pay fees to intermediaries or an agency. As respondent no. 1 stated, it usually: *“... includes not one property but three or four properties.”* This way they generate debt of such a magnitude that if they returned to Vietnam, it would be unlikely that they pay it back. ***“They are under big pressure to earn money to pay the debt back,”*** as quoted from the CIEM²² material. However, the bank lien imposed on the real estate is – excluding an interest-free loan from the family or friends – usually the best option considering the relative convenient interest rate (mostly 1.2-1.5 %). 43.3 % of the respondents had a lien imposed on one or more estates (further 30 % made no indication) and 63.3 % pay interest on a loan for the travel (16.7 % made no indication).

Considering the possible **interconnectedness of banks and mediatory agencies**, the persons inquired

19...<http://www.businessinfo.cz/cz/clanek/vietnam/vietnam-pracovni-sila-naklady/1000667/54756/> (8.1.2010)

20...In Czech crowns

21...E.g. approximately 100 thousand Czech crowns according to the current exchange rate

22...Nguyen Minh Thao, CIEM, Vietnam: *Migration, remittances, and economic development: Case of Vietnam*. p. 21. Source: <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>. (14.1.2010)

by the informant in Vietnam (including the respondent VN 1 working in a state-owned company exporting labour) stated that there is no such interconnection. “Usually they have mortgaged their property in a bank providing loans. If they cannot pay the debt, they will lose both the property and the plot mortgaged. There is no linkage between the banks and mediatory agencies, obviously even in the form of some secret agreements,” stated VN 7 about the system of loans for labour migrants, for instance. Thus, **this hypothesis was not confirmed**, either.

Another aspect of the whole process is also the **interconnection of the state with the agencies exporting labour**. For instance, a respondent surveyed in Vietnam (VN 1) directly works in a state-owned company, one of its activities being the export of labour. Also respondent no. 6 talked about the fact that in her case an official government institution mediated the travel to the CR: “The employees of the municipality came and announced recruitment for work abroad. The employees themselves recruited, we did not pass through any intermediary. The employees announced it and we registered ourselves at the local job centre (comment of the interpreter: “so thuong bing va lao dong” is a government body in smaller municipalities coming under the Vietnamese Ministry of Labour).” Obviously, some firms/institutions are state-owned. According to the information from respondents and other external sources, there are several other agencies providing services based on the registration at the Vietnamese Ministry of Labour and War Invalids.

However, it cannot be said that the agencies would operate in a blanket manner based on some public procurement because as has already been stated above, the journeys abroad continue to be mediated by a number of more or less official firms and natural persons. Or natural persons who are only recruiters working for some of the firms who keep a certain commission for the intermediation. Officially, 156 firms with a government licence operate in Vietnam exporting labour. Only by means of them, approximately 85 000 persons departed in 2008 (despite a low increase due to the crisis). In years 2001–2005 approximately 300 000 persons set off for work²³.

However, the data on the total number of persons travelling abroad for work will probably be higher because a number of them are recruited by unofficial agencies and intermediaries. However, these data can only be estimated by the Vietnamese government²⁴. In this respect, the situation in Vietnam is obviously very unclear and it **would be very difficult for the government to monitor all activities of all these entities**. Although by law all labour-exporting agencies should have a permit for this activity. For a better understanding of the situation, there is a comparison with agency setting in the Czech Republic. Job agencies here outnumber those in Vietnam by approximately two thousand, being registered at the Ministry of Labour and Social Affairs. However, illegal agencies still exist.

The labour export is a profitable business for the Vietnamese government – in 2008 the total value of remittances amounted to 5.5 billion USD²⁵. According to foreign resources and outputs from the spot check carried out by the informant in Vietnam, **the government initiative is, however, centred on defining the rules and support of the financing system of this export** rather than on its coordination and targeted use for other purposes such as reducing unemployment and raising living standards of the population. For the overall stock-taking of the year 2009, the experts foresee a decline in income of foreign workers due

23... Nguyen Minh Thao, CIEM, Vietnam: *Migration, remittances, and economic development: Case of Vietnam*. p. 11, 12. Source: <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>. (13.1.2010)

24... Nguyen Minh Thao, CIEM, Vietnam: *Migration, remittances, and economic development: Case of Vietnam*. p. 11, 12. Source: <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>. (14.1.2010)

25... Nguyen Minh Thao, CIEM, Vietnam: *Migration, remittances, and economic development: Case of Vietnam*. p. 15. Source: <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>. (13.1.2010)

to the stagnating income and growing unemployment in target countries. This will have a negative impact on the amount of remittances and therefore on the overall financial balance of Vietnam. At the same time, a negative impact on the social situation of indebted migrants' families can be assumed.

The respondent VN 6 surveyed in Vietnam stated: *“As far as I know the Vietnamese government has long promoted the export of labour, not only over the past years. Concerning financial support for mediatory agencies, this is not very clear, but regarding all necessary formalities and the overall policy, the government creates and promotes (favourable) conditions for mediatory agencies.”* And VN 7 added: *“The Vietnamese government encourages common people to work abroad. Acts linked to the labour export also strongly affect the behaviour of mediatory firms (e.g. the minimum contract period – at least 3 years). There is practically seldom any interest on the part of the Vietnamese government regarding other things – be it advertising or operation of banks concerning workers who have borrowed money.”*

Regarding the conditions of loans for labour migrants the respondent VN 2 said that: *“The Vietnamese government supports the export of labour because they are trying to reduce unemployment this way. The banks grant loans to workers with interest rates in line with their standards (or lower to support workers from remote areas. In effect, common people from these regions do not have property of value; even their houses have often such a low value that they cannot borrow money using them). Vietnam has a government policy aiming at “reducing poverty”. Workers can be lent money without a mortgage, usually up to 10 million dong (an amount which currently equals 10 thousand CZK and less). The workers have to explain the reason why, why they want to borrow money and the way they want to return it to the bank. In case of failure, their debt can be deleted or postponed or they can be granted another loan. However, this depends on specific cases.”*

Despite the effort of the Vietnamese government to enable the highest possible number of persons to go abroad to work, the whole process of labour migration from Vietnam to the CR can be fairly time-consuming. Regarding the preparations before the journey to the CR, 70 % of the respondents stated that the time from the decision/signature of the contract until the departure exceeded six months (23.3 % stated more than 1 year). A significant portion of this time was consumed by arranging for formalities at the Czech Embassy in Vietnam. Some respondents mentioned that the state-owned bank waited for the first installment one year – obviously since the long period necessary for seeing to all the formalities for the departure to the CR is well-known. Subsequently, the amortisation schedule requires an installment to be paid every three months: *“A loan from private individuals and from the state differed. I don't know about private individuals but the state defines a period of one year. If I don't pay in one year, then they are waiting another three months. If we don't pay even after three months, they come and seize our plots,”*(respondent no.6).

However, this waiting can be risky especially at the time of dynamic changes to the labour market, also because on the arrival the labour migrants may not find the promised job. This has also happened to several respondents who are currently unemployed. In any case, it would be obviously difficult (if not impossible, as also stated by respondents surveyed in Vietnam) to recover their money from the agency/intermediary if they decided to withdraw from a contract and not leave Vietnam based on the information on the changed situation in the CR.

Prevention of human trafficking and of exploitation in Vietnam

One of the questions put by the informant to the respondents in Vietnam was if the Vietnamese government was interested in preventing and suppressing human trafficking and exploitation. Respondent VN 6 had the most information about this issue and noted that: *“The Vietnamese government is interested in this but with no real success, there are some programmes to combat exploitation of working women in South Korea*

and Malaysia ... etc. ... but it is only little things“. Other interviewees mostly said something general that the government is interested in dealing with the situation but they did not know about any programmes or specific steps. International organisations dealing with the issue of human trafficking also state that Vietnam is focussed on tackling the problem of human trafficking and labour exploitation of its citizens mainly in Asia. In this respect the Czech Republic is mentioned in association with sex abuse²⁶.

The persons inquired in Vietnam were also asked to enumerate a few specific steps that they believe would improve the agency employment abroad and would prevent and suppress human trafficking or exploitation of labour migrants. Most of them only pointed to the necessity of prevention and respondent VN 6 added that in his opinion: „*The Vietnamese government is responsible, we cannot claim it is only a matter and responsibility of the job agencies*“.

The most comprehensive response was given by respondent VN 7 who just like La Strada ČR identified several most pressing moments of the whole export of Vietnamese labour force and of the employment of the foreigners in the CR. „*The first thing to do is to provide exact and specific information to the job applicants; then to organise seminars about labour force export. The issue of work permits should be based on standards which would help protect the rights of the workers and the mediatory agencies should be supervised from the legal standpoint, e.g. it should be checked if the workers do not sign the contracts under pressure at unfavourable conditions; the mediatory agencies should be committed to paying insurance so that the workers can be reimbursed if they lost their job without their fault...*“.

Services of the agencies in Vietnam

The services offered to them by the mediatory agencies differed in the case of the respondents involved in our investigation depending on the type of their visa and on the form of the mediatory entity. Out of all interviewees 70 % resided in the CR based on the business visa, 26.7 % based on the work visa and 1 respondent (equals 3.3 % of the sample) had a study visa. Some of them arrived in the CR with work visa and when the Czech job centre stopped extending the work permits they were forced to change their purpose of residence to business in order to be able to stay legally on the territory of the CR.

The people with the work visa mostly noted that they were offered Czech language courses by the agency or retraining courses but they mostly agreed that it was rather a formality only. „*I took a Czech course but it was only called a course. They charged 5 million Vietnamese dong for three months. I learnt nothing there,*“ described the experience respondent no. 8. He answered the question if he had learnt some facts about the CR as follows: „*No, they told me nothing*“. But for example respondent no. 26 rather praised the course given by the agency: „*... the firm contracted a teacher who taught us Czech, some fundamentals for basic understanding. And how to communicate in the factory. They also taught us about the Czech culture ... what the people are like, about the Czech legislation and the life in this country...*“. Besides the courses the people with the work visas were also provided with a job (even though it was a different job than what was agreed upon in the contract) and with housing.

The people with the work visa had also concluded a contract about the job mediation with the Vietnamese agency. The conditions of the mediatory contract are governed by the Vietnamese legislation so they included a promise of a job for three years whereby the agreement signed after the arrival in the CR with the Czech party was at best for 1 year. Just like during the 2008 investigation it was ascertained that the wage conditions and other stipulations can change after the arrival in the Czech Republic. The workers mostly sign an agreement in Czech and in a situation when they are under pressure because if they refuse to sign the

26...See for instance: <http://www.humantrafficking.org/countries/vietnam> (January 1, 2010)

agreement, they will not be taken on by the employer and because of not fulfilling the purpose of residence they can lose their legal residence status. „*I have what the agency arranged for me. I signed whatever they gave to me. If they had given me an arrest warrant, I would have signed it, too,*“ commented respondent no. 11 on the situation after arriving in the CR.

The respondents with the work visa all concluded a work contract in the CR – 75 % of them only in Czech, 25 % both in Czech and in Vietnamese.

The services delivered to the persons **with business visa** were mostly reduced to arranging for the necessary documents and for the travel to the ČR. Thereby the pledge towards the client was met. If it was official agencies, they mostly only offered visa service and the client knew beforehand that they had to find a job in the CR themselves, through acquaintances or relatives. If the travel was arranged for by mediators, some respondents got in touch with the contact person after arriving in the CR who offered them a job which they could but did not need to accept. In this respect they were at an advantage in contrast to those with the work visas who after arriving in the CR had to accept the conditions of the Czech agencies or companies with which they were not made familiar before. The business visa offers its holder more freedom when choosing the job and labour conditions and to leave or change the workplace arbitrarily. The biggest problem of the migrants with the business visas was underestimating the situation on the Czech labour market (obviously due to the shortage of information or availability of slanted information) and travelling abroad for work in the times of the crisis.

Out of the respondents with the business visa 42.9 % concluded some contract defining the conditions of the work and the remuneration for it – 33.3 % only in Czech and 9.5 % in Vietnamese.

The situation of the respondent **with study visa** (resp. no. 29) was different. He remarked: „*We concluded no contract. They promised to me that when I arrived in the CR they would change my visa after some time but I did not know that they would demand so much money for it. The agreement between me and them was oral only*“. When asked if he had to enroll in some school or college he added: „*No, I did not have to start going to school*“. The mediator promised no job to him but assured him that finding a job in the CR is simple and told him that he could easily change the purpose of residence after coming to the CR. This information was misleading at least.

Claiming justified entitlements towards the agency in Vietnam

None of the interviewees stated that any one job agency in Vietnam would have had to recompense the workers for breaching the contractual terms. However, based on the field information provided by the expert (see chapter *Situation of the Vietnamese workers in 2009*), it can be assumed that at least some persons who had jobs intermediated through official job agencies could have been recompensed partially. Informants say that due to the pressure exerted by the Vietnamese government some of these jobs agencies were compelled to recompense for the costs to the people who lost their jobs for example because of the crisis and when the agency failed to find a job for them. One respondent (resp. no. 26) also said that an official Vietnamese job agency had to pay back the deposit to a group of workers: „*Yes, we had to pay a deposit but they had to pay it back to us anyways, because it was them who broke the contract, not us*“.

However, we do not know how frequent such a procedure is. The opinion of the inquired respondents in Vietnam is rather sceptical in this respect. „*The Vietnamese workers who returned from the CR back to Vietnam had to manage their situation on their own, without any assistance from the job agency or state authorities,*“ (resp. VN 6). „*Most job agencies are somehow affiliated with state power, which means that they do not recompense workers*

if they return home before the agreed date. The Vietnamese legislation stipulates for the job agencies to be liable but these job agencies are more powerful than a worker. The workers do not pay the deposit in order to guarantee that they will not return back before the agreed date, it is a deposit that is paid to the mediatory agency. When the business intention succeeds, this business receives all of this money as a payment for its services,” (resp. VN 7).

In terms of the chances to win a legal dispute with the job agencies respondent VN 6 said: *“They do not even know how they could get back the borrowed money because even if they tried nobody, will ever return the money to them ... the courts won't help them”*. Respondent VN 2 explains why nobody turns to court to his mind: *“... the opportunity to claim money before court probably exists but is hard because the workers do not have the money to have their case decided before court”*. Respondent VN 7 added: *“The workers who return to Vietnam earlier cannot even think to claim recompense because they do not have enough opportunities or power to turn to the state authorities and have their case investigated. On the other hand, when workers are recruited, only a few of them are interested in the individual sections of the agreement. That is why so many then learn that they suffered some damage but nothing is clearly specified in the agreement so they do not even claim the money back”*.

The information about the chances of winning a legal dispute when enforcing contractual commitments from the agencies in Vietnam is inconsistent. Considering the ongoing economic crisis and a high percentage of the unemployed among the Vietnamese workers that have come to the Czech Republic to work through a job agency, the situation is likely to change. Claims towards the job agencies and intermediaries can only be put forward by those who entered the CR with work visa and through entities with which they had concluded an agreement.

CZECH CONSULATE IN VIETNAM

“The queue was so long that I did not dare to go to the bathroom so as not to lose my place in the line.”²⁷

The information about the view of the Vietnamese on the Czech Embassy in Vietnam, its functioning and role in the labour migration process organised by job agencies was mainly obtained through an inquiry conducted by our informant right in Vietnam. Some of the aspects were also mentioned by the respondents interviewed in the Czech Republic. In their case it was mostly subjective impressions from the visa procedure and the interviews at the Embassy. 28 out of 30 respondents took part in the interview at the Embassy. The investigation was pursued when the Czech Consulate in Hanoi issued no long-term visas for employment and entrepreneurship, therefore some of the responses were influenced by this factor.

The views of the respondents on the Czech Embassy in Hanoi were comparatively diverse. Ranging from a positive view: *“... The Vietnamese still regard the Czech Embassy in Hanoi as a place somehow close to them ...”* (VN 7), through a neutral to a strictly negative one. *“... the experiences with the situation in the Czech Embassy are not good,”* answered respondent VN 1, employed in one Vietnamese state-owned enterprise dealing with the export of labour force.

The question if the situation at the Embassy improved thanks to the electronic ordering system VisaPoint was answered by some of the interviewed Vietnamese people in the affirmative. However, respondent VN 2 (just like VN 7) believes that: *“... people living in the countryside understand it even less, if they understood it, it would definitely be better for the Embassy and for those it concerns”*. VN 7 specified that: *“Most people that want to go and work abroad are little educated and have no clear idea about a computer”*. The persons interviewed in the Czech Republic had no experience with this system because they arrived in the CR before the system was implemented.

27...Respondent no.9

Other question put to the respondents in Vietnam referred to the period when the Embassy stopped issuing long-term visas and the information appeared that some job agencies obtained visas for their clients through Czech consulates in the neighbouring Asian countries. Respondent VN 7 mentioned in this connection that: *“The official policy of the Czech Republic is to limit the inflow of workers from abroad. Therefore, it is generally difficult to obtain a visa into the CR, not only in Vietnam”*. Respondent VN 6 added: *“So far we know nobody who would have obtained their visa through a Czech Embassy in the neighbouring countries. A temporary consequence of this can be that the Vietnamese people might try to get their visas for Slovakia, I do not know exactly but it is possible”*. Apart from the fact that some intermediaries and job agencies managed to use the visas for consolidating family and study visa for exporting labour force, our sources from the field **did not corroborate the hypothesis that new channels would be open for massive legalising of labour migration into the CR** in this period.

In terms of the course of the interview at the Embassy, the experience of some interviewees differed considerably. The differences in experience existed even at times when no major changes were taking place at the Consulate. An interesting aspect can be the residence status of the interviewees – we do not know what role this status played, if any.

For example respondent no. 8 (work visa, interview in December 2007) said: *“They asked me what I was going to do there. The agency gave me a paper saying how to reply to what questions. No interpreter was present”*. Respondent no. 7 gave a similar description (work visa, interview in November 2007): *“They asked me in Czech ... why I wanted to go to the CR. Everything was in Czech but I was prepared for the answers from the agency, I learnt the questions”*.

In contrast respondent no. 12 (business visa, visa granted in March 2008) replied that: *“According to the number I went along and handed in my file that I had received from the intermediary and gave it to them through a small window. There were two people there, one Czech and one Vietnamese. It was easier with me, I did not have to answer any questions, they asked me nothing”*. Respondent no. 22 (business visa, interview toward the end of 2008) did the interview but described its course as smooth: *“... I only spent about ten minutes there. They asked me what I was going to do there, how much money I had. They are simply very open and accommodating so that you pass the interview”*. And respondent no. 9 (was granted business visa in March 2008) noted that he had participated in the interview and that *“It was in Vietnamese language and an interpreter was present”*.

Respondent no. 30 who obtained business visa at the start of 2009 also said that he only handed over his documents over the counter: *“... the Czech Embassy in Vietnam works so that we cannot even see their face. We do not even know if a man or a woman is on the other side because there is only a small window there so you can recognize nothing. They have a special glass there that allows people to see through it from inside but not from outside”*.

Respondent no. 25 (business visa, interview towards the end of 2008) then described the situation in front of the Czech Embassy in Hanoi as follows: *“... our people were so much trying to squeeze inside that some even passed out. Calling the Embassy to be invited for the interview is horrible, too. Some people had to pay as much as 1 500 - 2 000 USD to be invited”*. This respondent probably refers to the period when ordering over a special phone line was introduced. The experience of many other respondents was alike. Especially of those who came to the CR in the first half of 2008: *“We had to be awake from eleven at night until eight in the morning, until the start of the office hours. We had to be there and occupy a place in the queue ...”* (resp. no. 4) or in 2007: *“I queued up several days ... Some people were there four or five times and still did not manage to get inside ... I was lucky that I was received for the first time. That was thanks to the agency ... you give a few million to some people in the agency and they take care of your place in the queue,”* (resp. no. 3). After the electronic ordering system

was introduced, the situation in front of the Embassy probably improved.

The question if the workers could in practice arrange for all of their necessary documents for the journey to the Czech Republic without an intermediary or job agency was answered in the negative by all interviewees. The most fundamental aspect to them was the lack of information, complexity of administrative procedures and no chance to get in direct contact with the potential employer. In this respect it must be noted that many Czech businesses are reluctant to have foreigners on their permanent core staff and prefer hiring labour force through agencies if necessary. As one example of a major Czech enterprise illustrates, even if Czech businesses wanted to find labour forces right in Vietnam on their own, without bribes and intermediaries it is next to impossible²⁸. Along with uncertain situation on the job market this has been another factor contributing to a rather untransparent hiring through job agencies and intermediaries.

AGENCY IN THE CZECH REPUBLIC

The conditions of the respondents taking part in the investigation differed to some extent depending on the time they arrived in the CR. Based on the economic development and the subsequent decrease in jobs (consequences of the crisis) two categories with regard to the status of the labour migrants on the Czech market were established – those staying in the CR for less than a year and those staying here for over a year. The investigation further looked into the relationships between the agencies in the CR and Vietnam, into collecting other fees (that were not agreed upon before) for any services after the arrival in the CR (i.e. in distress and dependency) or into what the mediatory services can all include at present – the so called *dich vu*.

The length of stay of most respondents in the CR was over 1 year (73.3%). With regard to this indicator, for instance, the hypothesis was tested that the payments for mediating a journey into the CR increased in this period. This hypothesis was not corroborated by the analysis which was conducted on the examined sample (the reason can be insufficient size of the sample for this type of analysis).

The hypothesis that the unemployment rate is higher among those persons who arrived in the CR less than a year ago was verified. In the group of people residing in the CR for less than a year the unemployment rate exceeded 66%, the unemployment rate among those who arrived more than a year ago was 27%. The people who came here during the crisis may be disadvantaged due to the fact that they were granted no work visas - the respondents in this category involved only persons with business visas and one respondent with the student visa, and therefore they need not have a job. This uncertain situation after arriving in the CR is closely associated with enforcing other charges (not agreed upon before) for example for the transfer from the airport or for mediating a job and for other services offered by the intermediators.

Interconnectedness of the agencies

Compared with the findings of the 2008 investigation (Krebs, Pechová 2008) the role of the agencies in providing comprehensive services to the Vietnamese workers seems to be dwindling. The agency provided some of the respondents with the job and arranged for extending the residence or housing (even in cases they had business visa/residence). Half of the interviewees gave the information that their agency or intermediary in the CR worked on a legal basis, but some respondents said that they found a job through an acquaintance (it was no conventional job mediation). An increasingly important role in intermediating jobs and residence permits is played by the **mediatory service, the so called *dich vu***, that is delivered by natural

28...E.g. WMC: <http://www.cvs-praha.cz/napsali.php?rok=2008&cclanek=77> (10.1.2010)

persons and legal entities, coming originally from the Vietnamese community. These intermediaries can only recommend a worker or have documents issued but they need not provide jobs directly, which means that they can do without any special permits for job intermediation.

The description of the activities and interconnection between the agencies is thus just one aspect of employing Vietnamese workers. This aspect was evidently less important in the times when this investigation was conducted than what the situation suggested in the previous year. Any future development is only difficult to predict at present as there are still relatively few employment opportunities for foreigners in the Czech Republic.

The information obtained from some respondents confirmed the interconnection between some agencies in the country of origin and the agencies on the Czech territory: *“Yes, they collaborate together ... one party provides employers, the other employment, takes on workers and so on...”* (resp. no. 4). While getting ready for their journey to the Czech Republic, they in fact only experienced that work permits and other necessary documents were provided by somebody from the Czech agency. *“... it is somebody else on the Vietnamese side and it is somebody else here. Because when we wanted to arrange for our documents in Vietnam, we had to write a power of attorney for a Czech man so that he/she could have our documents issued here,”* says respondent no. 6. This respondent also mentions that she is paid no wages when on holiday because there has been a disagreement between the agency in Vietnam and in the CR and the Czech agency is now making up for its financial loss to the detriment of the workers: *“... when we ask about our money, they tell us that the owner in Vietnam provided for no people to supervise us here and that we have no right to claim any money”*.

This information was obtained from the owner of a Vietnamese agency holding an official status (it is a company with limited liability having a valid permit from the Czech Ministry of Labour and Social Affairs to intermediate employment). The owner of the agency stated that the documents needed for the journey are taken care of in Vietnam and then he finds jobs for the people here. However, his agency finds jobs mainly for the people with business visa/residence. The transport is taken care of by the intermediaries in Vietnam, his agency takes the people over after their arrival in the CR and provides them with housing, assists in registering at the Immigration Authorities, in extending their stay, interpreting and finding a job. The agency then charges the workers for these services: *“Some charges are discounted from our pay, for example for housing. Some of the other payments are made beforehand, some later, if the workers have no money on them, they pay me afterwards”*. As far as specific amounts of charges and flows of money between the agencies on both sides are concerned, this respondent was not willing either to give any more details.

The cooperation with the partners from the country of origin of the migrating workers is mentioned on the web pages of an official agency²⁹: *“The agency has concluded long-term contracts with the Vietnamese and Mongolian party for preparing and hiring Vietnamese and Mongolian workers in the Czech Republic, this contract is under supervision of the Vietnamese and Mongolian state bodies”*.

The agencies can be interconnected at several levels if several major legal entities participate in the job order. One respondent described a system in which an official licensed Vietnamese agency intermediates business journeys abroad, a Vietnamese agency with the permit of the Czech Ministry of Labour and Social Affairs takes the workers over on the Czech territory, provides them with housing and takes care of interpreting. The workers then sign a contract with a Czech agency holding the permit of the Czech Ministry of Labour and Social Affairs and this agency temporarily assigns them jobs in factories. Logically it follows that each of these entities should make some profit on the whole transaction.

29...<http://www.affumicata.cz/system-spoluprace/> (20.12.2009)

Charges after arriving in the CR

In terms of the workers with the work visas, after arriving at the Prague airport Ruzyně the workers were contacted by phone or awaited by the agency representatives at the airport with a banner reading their names or they were identified using the copy of their passport. Following that they were transported to the boarding house. This at least points to some communication between the Czech and Vietnamese party. No other financial amount was collected for these services. The information obtained in the field shows that some persons were asked for money for the transport to the boarding house or to the employer.

The respondents with business visas were mostly contacted right at the airport and transported for free to the place of housing. Afterwards some of the respondents had to pay for job intermediation while looking for an employment. Only one respondent was required to pay a charge right after the arrival in the Czech Republic, the respondent was warned in advance that if having the business visa, he should start business and if he wanted to work in a factory, he would have to pay. At the airport he was contacted by a man who certified his residence (accommodation certificate) but he had to pay 500 USD for having a job found and another 2 000 CZK for the transport to the workplace.

Another respondent then said: “... about 10 000 had to be paid for the accommodation certificate ... and I know one case when the workers landed at the airport but nobody came to pick them up, they were alone there and could not find their way round,” (resp. no. 10). This respondent also mentions the charges for job intermediation and says that as a consequence of the crisis the charges now range from 4 000 to 5 000 CZK for “uncertain” jobs and from 8 000 to 10 000 CZK for “better jobs”. He also adds: “We pay but do not know anyways how long we will be working”.

Apart from these situations there are also cases about which Mr. Nam Nguyen talked in one of the interviews dedicated to this issue³⁰: “The people from the job agencies collect them with cars at the Prague airport and leave them to their fate in Sapa...”.

Dich vu

The services and forms of the Vietnamese mediatory service can be diverse. Judging by the information obtained from the respondents it is mostly rather natural persons than companies that have the contacts and are able to care of most things that the Vietnamese migrants need. As one respondent said they can be met anywhere. Some of them have their own offices, some others prefer working anonymously. “... dich vu, that is diverse, they are public, or they are unknown ... it is enough to go downstairs to the cafe and there you meet dich vu,” respondent no. 10.

“Dich vu” offer to take care of the accommodation certificate, to provide housing, job intermediation, to arrange for the change of residence purpose, for the visa or residence to be extended, tax counselling, legal counselling and consulting, interpreting, accompanying to the Czech authorities and some other services. With regard to the situation on the job market and within the Vietnamese community - shortage of employment opportunities announced as being vacant for foreigners, preference of quasi-employment relationships and multiple change of purpose of residence to business purpose - dich vu then accommodate the structure of their services. As respondent no. 14, whose acquaintance coming originally from the same village acts in the Czech Republic as dich vu, stated: “... he takes care of people in the Czech Republic but the business is no longer going so well so he is now offering some other services. For instance he can take care of your tax return ... He is not looking for jobs for other people ...”.

30...<http://borntoanthropology.blog.cz/0904/o-nesnadnem-osudu-rady-vietnamcu-u-nas>

The charges for *dich vu* services differ proportionally depending on how complex the individual procedure acts are and if they are manageable by ordinary migrants on their own: “... *even when I had a relative with me here, he had to turn to the local dich vu anyways so that he would take care of everything, we would not have managed that on our own,*” (respondent no.10).

The respondents were also asked the question if they wanted to extricate themselves from the system of agency employments. Several replied to the effect that the agency system is advantageous to them because they would not be able to find a job themselves and obtain all the necessary documents. Nevertheless most respondents agreed that this advantage is only relative. Respondent no. 11 characterised the situation as follows: “*If there were somebody to help me, I would go for it. Otherwise I daren't ... I have nobody here to lean on*”.

LABOUR CONDITIONS

The labour conditions of most respondents were influenced by the situation when there are in the long run comparatively few employment opportunities announced by job centres as vacant and suitable for foreigners. In the period from January to October 2009, 20 515³¹ of these employment opportunities were slashed and currently (as of December 20, 2009) 1 107 jobs are available on the portal of the Czech Ministry of Labour and Social Affairs. An analysis of the Czech Ministry of the Interior³² conducted in early 2009 expected up to 68 000 work permits to expire (i.e. termination of the equal number of employment relationships with foreigners) and this prognosis came true to a greater extent. Alone in January and February 20 000 work permits were terminated³³ and in total during the period between January – November 2009, 35 116 foreigners registered with the job centres lost their employments³⁴.

Out of all interviewees 36.7 % were unemployed and these were basically jobless from several weeks to several months. Those of them who had experience with flow production in factories (assembly shops) and whose agency was sound and reliable and thus worked under relatively normal labour conditions and for comparatively normal wages would like to be employed in this sector again. The unemployed several times voiced the wish that: “... *the economy improved and the factory started operation again and began hiring people so that employees had some work*” (resp. no.17).

Type of labour, work environment

The interviewees who were employed in the time of the investigation were active on the secondary labour market and mostly in some type of flow production. Compared with the research conducted in 2008 (Krebs, Pechová 2008), the industries were now more diversified. A smaller percentage of people worked in conventional assembly factories like Panasonic – besides electronics it also included poultry farms, labelling and packaging of food products, metalworking and the automotive industry. Five respondents worked in construction industry, one in a restaurant and one in a foundry.

Most respondents were relatively satisfied with their work environment. They mostly assessed their work as undemanding (final assembly of products, packaging of products, etc.) or they assessed their job

31...MPSV: http://www.mpsv.cz/files/clanky/7854/tz_131109a.pdf (December 20, 2009)

32...Presentation of the Czech Ministry of the Interior at: <http://www.mvcr.cz/clanek/dobrovolne-navraty-a-zajisteni-bezpecnostni-situace-cr.aspx> (December 21, 2009)

33...Presentation of the Czech Ministry of the Interior, p. 2: <http://www.mvcr.cz/clanek/dobrovolne-navraty-a-zajisteni-bezpecnostni-situace-cr.aspx> (December 21, 2009)

34...Ministry of Labour and Social Affairs: http://portal.mpsv.cz/sz/stat/zam_ciz_stat_prisl (December 25, 2009)

as demanding but manageable in case standard conditions were maintained. What they assessed controversial was rather illegal reduction of their wages, unproportionally long shifts or forced labour at night: *“They told me that if I did not work at night, they would fire me. But who can endure to work at night 365 days a year and get no extra money. They told me to hand in my notice if I did not like it,”* said respondent no. 9 who also showed some other features of labour exploitation. In terms of occupational safety and personal protective equipment, most respondents said that everything was all right and if they did not use the personal protective equipment they did so from their own decision. They said in no case that they would have been forced by the agency or employer to do some life- or health threatening work without personal protective equipment.

Working hours

Almost all respondents had a standard eight-hour working time, only some of them said that they had a specific schedule depending on the production mode, they for example worked two twelve-hour shifts for two days in succession and then had two days off. The total number of working hours was still 160 hours per month. An exception was respondent no. 9 who was forced by the agency to work on night shifts that lasted standard eight hours but the respondent worked seven days a week. And also another respondent who worked seven days a week from 9 am to 9 pm. The job of this respondent was less demanding than that of the previous respondent working on night shifts in a foundry but he worked for a total of about 350 hours a month and received a net income of 8 000 CZK CZK and the meals.

The situation of some of the respondents was complicated by the fact that their job was uncertain and the company called them to work depending on the job orders which were irregular. They for instance could only work for a maximum of 2 to 5 shifts a week. Given the fact that more hours at work mean a higher income and chance to save some money for the installments in Vietnam many would be interested to work extra hours. Especially when the crisis caused the hourly rate to go down in some firms and agencies. At present this opportunity does not exist due to the shortage of jobs.

Wages

The wage rate depended on the industry the respondents worked in, if they were hired through an agency (that withheld some portion of their wages) or if their job was intermediated for some one-time payment, and on the residence status. Persons residing in the CR based on the business visa/residence basically earn more money for the work but they have to make advance payments for taxes and social security, either continuously or one-time if they need to have their visa/residence extended. These amounts can total up to 30 CZK. The persons residing in the CR based on the work visa/residence stated their wages as net income, i.e. how much they practically receive from their employer. 87.5 % of the respondents with work visa/residence got their pay slip.

The intervals of the earned amount of the respondents were divided into five categories ranging from “10 thousand and less” to “above 20 thousand CZK”. Some jobless stated the amount of their last earnings and 26.7 % of the people did not respond to this question at all or they had had no income for a longer period of time. 16.7 % of the respondents stated their monthly income in the range 10 000 CZK and less, the same portion of respondents answered to earn in the range between 10 001 – 12 500 CZK and between 12 501 – 15 000 CZK. 13.3 % of the respondents earned between 15 001 and 20 000 CZK and 10 % earned more than 20 000 CZK. All persons with the work visas fell in the categories less than 15 000 CZK.

It does not necessarily mean that people with the business visa/residence would earn more money. Respondent no. 22, working 12 hours a day, for example said: *“I get no extra pay for longer hours, I work 30 days*

a month. I receive a net income of 8 000 CZK and do not have to pay for the meals". The hourly rate corresponds to approximately 23 CZK for an hour of work. Before losing his job respondent no. 16 worked under similar conditions in a company where he says only foreigners worked: "Before, I earned about 8 000 CZK a month. I worked 11 hours a day ... 7 days a week, I had a single day off in two months". Any defense against such a low financial remuneration would be at least very complicated for these respondents because they have business visa. A lawyeress believes (for more details see legal analysis Aspects under private law of the issue of employing foreigners) that it first would be necessary to prove that it is a covert employment and then to claim one's rights pursuant to the Labour Code. Then it could probably be proven that in these cases it was labour exploitation.

In some cases **discrimination and (traditionally) unequal conditions as compared with the core staff of the firm** were revealed: "We show each other the pay slips. We earn about 14 thousand and those having an agreement right with the firm earn about 21 – 23 thousand," said for instance respondent no. 11.

The most frequent problem concerning the wages was **not paying all statutory components of the wages** - this problem applied to **62.5 %** of the persons with the employment status that experienced on a regular basis **not being paid bonus and benefits, not being paid for extra work, not being paid sickness benefit** and/or being deducted various "advance payments" and **other amounts from their wages** that mostly amounted to several hundred or thousand korunas a month. Some respondents were almost astounded when asked about the bonus: "Not at all, if the rate is 70 CZK per hour, then it is always 70 CZK per hour. It does not matter if it is on Saturday, Sunday or if you are working all day long without any break, it is always the same rate" (resp. no. 2).

This also concerned people with the business visas/residences. For example respondent no. 9 working under demanding conditions in a foundry said: „I always only work at night and they (the agency) pay me the same as for daily shifts. Besides that I work fewer hours because the working time at night is shorter". It would again be necessary to prove the so called covert employment relationship in this case (see above).

Several cases of withholding the **wages (16.7 %) were registered** - 1 respondent with the work visa and 4 respondents with the business visa (in their case it was rather not paying the agreed amount for work). The controversy did not only concern the agency or intermediaries but the companies themselves for which the respondents worked. For example respondent no. 18 was talking about his situation as follows: "I worked for one construction company from March until now. I am still working for them and they do not pay me. First they paid little, then nothing They only paid me the first five months, now they pay me nothing ... I am staying in this job because I hope to get the money from them and repay my debt in Vietnam".

The Vietnamese workers who found themselves in a situation when they are not paid some statutory components of the wages or their wages are withheld from them can mostly do nothing but endure that. Besides not knowing their rights and ways of enforcing them, the main obstacle is that if they complain, they lose their job, which could have serious consequences for them due to the crisis and shortage of employment opportunities.

Impacts of the economic crisis on the labour conditions, the wages and the unemployment

In terms of the expected aggravation of the labour and conditions and wages, the situation has probably not changed generally. Only in some cases were the conditions very different from those before the crisis: "... now the Vietnamese intermediaries pay very little or they only pay for housing and the meals, not more," (resp. no. 3). Some unemployed thus **work for their countrymen and are only provided with housing**

and the meals. For some of them it can be a matter of survival if they find themselves on the Czech territory without money and sufficient social services: *“I have been sleeping outside for a week. Before, I was just sitting in the pub but did not sleep there,”* (resp. no. 23).

To some degree there is solidarity and mutual help among the workers: *“Yes, I am afraid of losing my job, other people depend on me. But there are also worse cases. There is one man here who has no job, no money and nowhere to stay, so we all had to give some money to him and we have been bringing him Chinese soups and blankets so that he can sleep in an abandoned car. And this is not the only case, there are many others,”* said for example respondent no. 14. But not all who lose their jobs (or find none after arriving in the Czech Republic) have somebody to turn to. Due to the crisis it is difficult for some intermediaries acting in the CR to meet their obligations: *“There is very little demand now so I sometimes must think up work so that they don't die of hunger...,”* said the owner of one Vietnamese agency. Work for housing and the meals can be a great help to them when they can stay in a foreign country without a place to stay and without any knowledge of the language. However, the question is if this is help or exploitation?!

In some cases due to the crisis the financial conditions were changed, which could also be linked with the change of the residence status and which could be an increase in expenditure and decrease in income: *“... it was 68 CZK for an hour ... but because of the crisis it is only 60 CZK per hour now and as I am registered as a businessman I have to pay health insurance, social security, taxes and housing ...”* (resp. no. 4). This affects their ability to pay back their debt for the journey to the CR - 46.7 % of the respondents said that they did not remit money to Vietnam. *“There is a crisis now and no steady work so I have remitted no money yet. I have not helped my family yet. What I earn is only enough for housing and the meals,”* said respondent no. 16.

The respondents often talked about the shortage of jobs and uncertainty if (despite the increased charges) a job will be provided to them through the intermediary. Most respondents that had a job were afraid that they could lose it. Some even stated that they only found a seasonal job and had to be supported by their family in Vietnam in winter: *“At the start the family had to send money to me. It was winter and no work. Nobody was hiring so the family had to help me out financially so that I could afford basic stuff like food and so on. So that I could live through the winter here because it is easier to find a job in summer here,”* (resp. no. 10). These seasonal fluctuations will probably re-occur periodically with minor or major intensity until the situation on the job market returns to the state from the start of 2008 (if at all).

LIVING CONDITIONS

“I wish to make money to repay the debt and then go home.”³⁵

The living conditions of the Vietnamese who came to the Czech Republic to work differ depending if they have a job, who provided the job to them and what income it generates to them. In comparison to the findings showed by the La Strada ČR research in 2008 the situation did not change much. The only difference may be that a larger number of people moved from boarding houses to apartments that are mostly leased to them by the Vietnamese intermediaries. These apartments can be in a worse condition than the boarding houses and they are beyond any control. But there was nobody among the respondents who would complain about downright bad conditions in such an apartment. Even despite the fact that one respondent lived in a three-bedroom apartment with another seven people. The respondents mostly paid about 2 000 to 3 000 CZK a month for housing in the intermediated apartments.

The cases of the people who lost their jobs are specific. Some agencies let them stay in the boarding house

35...Respondent no. 5

and lend money for food to them: *“I was unemployed for several months, I received no unemployment benefits. So I had to go down (down means to the agency office) and I asked them to lend some money to me ... when I go to work again, then agency will deduct it from my wages,”* (resp. no. 5). One respondent answered that while she was jobless she was getting 70 % of the wages. But this was a rare case and it was a stoppage taking a few weeks only. However, some people lost their jobs and were moved out of the company boarding house at the same time. These people then depend on the help of their countrymen that let them sleep in the boarding houses or let them live for free in their apartments until they find a job and start contributing to the rent. *“... I sustained them even at the expense of my children, I sent them no money for education. For every month I paid three thousand for each, I had to pay the agency for the housing of my roommates...”* (resp. no. 11). Or they manage to find a job at least to cover housing and the meals.

The Vietnamese workers mostly travel long distances within the CR to find a job, some of them even leave for other countries within the Schengen Area and outside it. The respondents mentioned migration to the Nordic countries, Germany, the UK or to the USA. These transfers are a psychological burden to them. Even as these distances are comparatively short in contrast to the distance between the CR and Vietnam, by moving away they very often lose the only social network they managed to establish here and need to start from scratch again. On the other hand the mobility of the Vietnamese people is generally higher than within Czech society. However, some of them end up homeless and follow conventional strategies of homeless people - they sleep for example in car wrecks, in parks, under bridges, etc. It is not known that they would use hostels for homeless people because social services of this kind are mostly provided to Czech or EU citizens only and the Vietnamese workers have usually no awareness of the existence of such organisations in the CR.

Cost of living

Most respondents pay about 5 – 6 000 CZK a month for housing and the meals. The housing costs are usually about 2 500 – 3 000 CZK and the same amount is then spent on food, the traffic fare and phone bill. The differences in the costs exist depending on if they live through the agency, in a boarding house or together in leased apartments. Three respondents having housing through an agency had the lowest housing costs - they paid 1 500 CZK a month for the housing in a boarding house and had this amount deducted from their wages. One of the respondents added that: *“Those who found housing elsewhere and do not live in the company boarding house are also deducted 1 500 a month”* (resp. no. 8).

There is solidarity among the Vietnamese migrants, which allows those who have had no income for some time to survive. Sometimes one worker sustains several unemployed ones. He/she pays the housing and other costs for them and shares the food with them. The matters get complicated when the unemployed need to solve their problems concerning the residence permit. In this case the costs amount to dozens of thousands Czech korunas for extending or changing the purpose of their residence in the Czech Republic. The community help can also work in these cases: *“Everybody lends me a little, I pay it back to them later”* (resp. no. 17).

The charges for job intermediation have also gone up recently because of the lack of employment opportunities: *“... when I came here, I worked the first five months in Plzeň. I changed my job three times during the five months. I paid charges for dich vu about 10 000 CZK and was paid no wages. I only got an advance payment of 1 – 2 000 CZK for food from them so I needed to borrow money to be able to have some while looking for a job elsewhere,”* said for example respondent no. 10. The result is thus uncertain and the strongly indebted Vietnamese workers only run up more and more debts because of the mediatory system operating in the CR.

If the unemployed are forced to “provide for their papers” apart from regular costs for housing and food and to pay high charges for getting a job for which they may get no money and if their debts in Vietnam are rising we need to ask the question for how long this situation is sustainable. Relying on the mutual self-help of the community need not be the best solution, especially if the situation does not change in the Czech Republic in near future.

Access to the services and information

The 2008 investigation tested the hypothesis that the Vietnamese who travelled to the CR in the app. last two years have no real access to the services of non-governmental organisations and information about dealing with difficult life situations and about defending oneself from exploitation by the intermediaries and agencies. The experience shows that this state rather prevails even though the activities of some assisting organisations were more focussed on addressing this target group and these clients start showing up in the counselling and integration courses. Primarily these people still turn to the community first and have very little awareness of the social services in the CR. One of the fundamental factors is obviously the language barrier which gives rise to easy exploitation of the Vietnamese workers.

The respondents were also asked about their experience with the Czech non-governmental organisations and trade unions. Despite the efforts of the interpreter to explain the meaning of these notions, most respondents could not associate them with anything that could be of relevance to them. Even a respondent who was familiar with the functioning of some assisting organisations in Vietnam (he specifically referred to organisations dealing with the prevention of venereal diseases) did not know that such organisations existed in the Czech Republic. And respondent no. 2 added to this topic: *“If only there were an organisation here that could defend us because some are really helpless. Because if an injustice is done, how can these people defend themselves? They demand nothing special, basic rights are at stake.”* and added: *“If you visit and interview us, you could also design a plan how to help these people out ...”*. **None of the interviewees had any experience** (direct nor intermediated) **with the Czech assisting organisations or trade unions.**

60 % of the respondents had some experience with the **Czech authorities**. They mostly gained experience with the Czech state authorities mainly while they were checked by the Czech Police or went to the Immigration Authorities in person when their intermediary extended their residence, or one respondent went to the Municipal Authority in order to sign a declaration about her trade permit. No respondent went to any office on their own or initiated any action for investigating their case or to bring any complaint about their employer. Except one respondent (bribe for driving without driver’s license) nobody mentioned to have experienced corruption or discrimination on the part of the Czech state authorities or anything outright negative.

Nearly half the respondents (regardless if they had a job or were jobless) expressed their wish to repay their debts and go back to Vietnam.

MECHANISMS AND INSTRUMENTS OF EXPLOITATION DURING THE ECONOMIC CRISIS

Sometimes it can be persons or mechanisms at the same time, with the purpose to either exploit at work and in a life situation or to build up/maintain some pressure which then makes exploitation possible. Most of these mechanisms and tools are elaborated upon in the previous chapters that provide a detailed description about particular aspects of the life of the Vietnamese workers in the Czech Republic.

The director of the Immigration Authority Vladislav Husák is likely to know how difficult and risky

it is for the foreigners to defend themselves against such practices when he declared in one interview with the Lidové noviny daily: "... *And if he/she is a hero, so they go to the Immigration Authority ...*"³⁶.

Stakeholders

The investigation laid an emphasis on examining the role of the persons that are involved in the chain of job intermediation, employment of foreigners, taking care of administrative procedures for labour migrants including the legalising of their stays and extending of the residence permits of Vietnamese workers. Those who want to come to the CR and also all who are already in the CR depend on them.

In contrast to the 2008 investigation the **mediatory service (so called dich vu)** provided by natural persons or legal entities right on the Czech territory has grown in importance. It is obviously due to the situation when as a consequence of the decrease in employment opportunities announced by the job centres as vacant for foreigners (from January to October 2009 a decrease by 20 515³⁷) and as a consequence of suspending the issue of work visas towards the end of 2008, a significant portion of the Vietnamese were forced to apply for business visas or to change the purpose of their stay in the Czech Republic to business purpose.

This process involves a number of procedure acts that a regular worker is generally not able to manage on their own, mainly because of the language barrier and ignorance of the Czech legislation. And this is exactly what creates opportunity for dich vu who can arrange for everything - starting from the accommodation certificate, the extension of stay and ending with completing and submitting the tax return. At the same time they mostly offer to intermediate a job, housing, interpreting, legal consulting and other services.

The charges for the dich vu services are comparatively high (e.g. the extension of stay including the payment of social security, health insurance premium and tax can amount to as much as 60 – 70 thousand CZK), which is a lot of money for badly paid workers (over 50 % of the respondents had an income below 15 thousand CZK before deducting the cost of living and another more than 26 % had no income at all) that also need to repay a high debt back in Vietnam. If it is a reliable and sound service, it gives the workers the chance to stay in the Czech Republic legally and to gradually pay back their debt or wait until the job market situation improves. The way of living when a worker in fact only earns money to maintain their legal status is referred to with the collocation "provide for the papers". When respondent no. 17 was asked how long he would like to stay in the Czech Republic he answered: "*Probably a few years. We shall see, now I must try a lot to provide for the papers*".

Being in such a situation, many of them must turn for help to their family in Vietnam that in fact expects to receive money. For example respondent no. 9 said: "... *Maybe I will tell my wife to sell vegetables and the pigs and to send me money for social security and health insurance premium*".

70 % of the respondents included in the investigation had business visa/residence. In practice this gives the workers the advantage of being less dependent on the agencies or employers to whom the work permit was earlier issued (condition of legal stay for the purpose of doing business). On the other hand they are no longer a party to the employment relationships and cannot enjoy the protection provided by a generally protective Labour Code of the Czech Republic - though the enforceability of the Labour Code provisions in case of foreign workers is anyway very questionable (see e.g. Krebs, Pechová 2008, p. 47, 91 and following). An exception could be if a so called covert employment relationship could be proven (for more details see the analysis *Aspects under private law of the issue of employing foreigners*).

36...Vidlák, M. *We did not invite the foreigners, they could have stayed at home*. Praha: Lidové noviny, August 31, 2009

37...Czech Ministry of Labour and Social Affairs: http://www.mpsv.cz/files/clanky/7854/tz_131109a.pdf (December 12, 2009)

In comparison to past years **interpreters** or **human resources specialists** appeared less frequently among the controversial persons exploiting migrants. The exploiting persons were mainly represented by job intermediaries (**unreliable und untrustworthy dich vu**, so called **Ukrainian clients, Czech intermediaries** and **official agencies**) or right the **owners** of small and medium businesses. Anyways, the uncertain quality of interpreting and little confidence in interpreters were mentioned in several interviews - e.g. respondent no. 8: *"I am in contact with interpreters only. They rob their own people. I trust them not a single word. Everything must be communicated through them, as if they represented the agency ... The interpreter X refers to the interpreter Y and Mr. Y again refers to Mr. X and I cannot make myself understood in Czech"*.

Wages

The most frequent problem affecting our respondents was the **withholding of the wages from the workers – 16.7%**, a trouble that 1 respondent with work visa and 4 respondents with business visa encountered (in their case it was rather not paying out the agreed amount for the work done). Respondent no. 18 for example says: *"They told me that if I stopped working there, they wouldn't pay me at all"*. Respondent no. 9 who has business visa but is in fact allocated by the agency to work in a factory said too that this agency had withheld his wages from him for a long time and if he had handed in his notice they would pay him nothing: *"They pay us every three months ... it is in fact coercion, if I disagree, they fire me ... they reduce my wages"*.

In terms of **not paying all statutory components of the wages**, this problem logically only concerns people with the work visa/residence. However, it regarded **62.5 %** of the persons in an employment relationship who were on a regular basis **not paid extra pay or bonus, not paid for overwork, not paid sickness benefit** and/or were deducted various **"advance payments"** and **amounts from the wages** that mostly amounted to several hundreds or thousands of Czech korunas a month.

Respondent no. 8 described it this way: *"... let's say that they only rob the bonus from us which is approximately some 1 300 - 1 500 CZK ... even those who do not live in the company boarding house are deducted housing costs of 1 500 a month... they should pay me 10 thousand but only give me 8.5 thousand ... Last time one colleague went right to the company to complain and was fired"*. This respondent worked as a permanent staff until May 2009 in a factory and after his one-year agreement expired he was transferred under the remit of the agency that originally brought him to this factory. Since then the conditions have changed and he could not even take his holiday.

Threatening, violence, withholding of documents

A total of 13.3 % of the respondents experienced **threatening by the employer/intermediary** and **bullying and unfair treatment**. Respondent no. 9 added: *"They have a spy here (in the apartment) who tells them everything about what is going on here ... I told him yesterday that once I would this place I would kill him"*. **Some of these respondents were threatened to lose their job** if they did not take on the work assigned to them or disagreed with the specific labour conditions (for example ordered work at night) set by the agency or intermediary. Some associated the threatening with the job loss with signing some employment agreements or other documents in Czech that were not comprehensible to them.

None of the respondents encountered **physical violence by the employer** but one respondent stated that he is **restricted in movement by the employer**. The field information suggests that physical attacks or movement-related restrictions on the part of the employer or intermediary can occur in some cases.

At the time of conducting this interview all of the respondents had **documents on them** but one respondent

mentioned that he was once forced this way to act illegally: “... *they withheld my documents from me and forced me to do the job I did not like ... as I refused to do the job they took the documents away from me and coerced me to do the work they wanted...*” (resp. no. 23).

Strong economic motivation

It is still true that an agency in Vietnam concludes agreements with applicants for a job in the CR and these agreements are incomplete, do not correspond to the conditions of the working position in the CR and include insufficient guarantees. Additionally, the visa services and the export of labour force are provided by persons or companies without necessary licenses.

In terms of the workers travelling to the Czech Republic with the business visa, the obligation is met when the intermediary enabled the people to arrive in the CR whereas finding a job can be strongly uncertain for them. As one respondent said within our investigation in Vietnam: “*No objective information is available. Most agencies slant the information on purpose or do not give the workers basic information*”. Another respondent from Vietnam added: “*The information – the information about the wages and other conditions – is mainly supplied by the intermediary agency. As some agencies were established to rob the job applicants, they usually provide more optimistic information than what the reality is. With the applicants longing for well-paid jobs, they easily stop being cautious and let themselves be tricked*”.

The respondents arrived in the CR with a debt as high as 15 000 USD (over 50 % of them paid from 7 001 to 11 000 USD) whereas some of them had to put as many as four real estates into the pledge of the bank. This is the reason they stay in the CR despite having no job. In times of the crisis they must be financially sustained by their family in Vietnam to cover their basic living needs. Some unemployed migrants and those workers who only go to work to pay the housing costs and the meals would like to return home again but cannot do so. Their main objective is to “provide for their papers” until they find a job to earn enough to repay the debt and to be able to return back to Vietnam. “*As soon as I earn the money I invested in order to come here (to the Czech Republic) I will return home,*” said respondent no. 20.

Unclear competencies

The issue of unclear competencies of the persons with whom the workers negotiated concerns the interpreters – if a worker needed something, one interpreter referred him to another interpreter and the other one again referred him to the first one. Or it concerns the relation between an interpreter and the agency when the worker knows no agency representative and communicates everything through the interpreter.

It can be that the competencies of the agency are vague, too. One respondent whose relative in Vietnam is a policeman and thus managed to acquire more information than others described the system of “interconnectedness” in case of three relatively large and legal agencies. In this case this is a comparatively easy structure but the field information suggests that the interconnection can be more complicated and that the interconnection can involve from five to six entities that “lend” workers to and transfer them among each other. Respondent no. 7: “*The company is called “A” ... An education agency in the field of traffic, logistics and electronics that besides this intermediates journeys abroad. They have a license for that ... I am picked up at the airport by somebody from “B” (agency in the CR) ... the principle is that the company has contacts here in the CR and sends a message home saying that they need about 50 people with skills in this field ... I couldn't have an agreement right with the employer but had to arrange for it through “B”. I have an agreement with “C” (another agency in the CR) ... I have no agreement with “B”, only one with “A” in Vietnam ... but now I have an agreement with “C” ... I will turn to “B” if I lose my job ... “C” and “A” do not know each other*”.

The matters are only worse due to the ignorance of the circumstances in the CR, of the Czech legislation and a major language barrier. Only 30 % of the respondents said that they had no information about their rights and opportunities in the CR, however, without specifying in greater detail what kind and quantity of information they were referring to. Sometimes these rights were rather understood negatively: “... *I read newspapers, I know what I am allowed to do and what not. I mustn't sell faked goods or grow marijuana*” (resp. no.16). Respondent no. 1 gave a very unambiguous answer: “*I have no rights*”.

40 % of the respondents claimed to have no experience with the Czech state authorities (irrespective of the length of stay in the CR) and 100 % of them replied in the negative to the question if they had any experience with Czech non-governmental organisations or trade unions.

Newly experienced forms of circumventing the Employment Act No. 435/2004 Coll.

While the investigation among the respondents was made, some people who were exploited by a company, with the licence for intermediating jobs (agency), that plants timber species for a major Czech company, turned to the counselling offices of some non-governmental organisations. It was hundreds of people who worked several months actually just for boarding and the meals. All of these persons were holders of the trade permit and they were provided for the work by the agency using the pretense of “traineeship”. The agency charged money for this quasi intermediation. Given there is a contract between the agency and the company for which these people worked it is likely that it was a deceit prepared beforehand in which at least two persons participated each of whom belonged to one of the partaking entities and had the necessary competencies at their disposal. A source with a close relation to the Czech Ministry of Labour and Social Affairs commented on it: “*The relation between A and B is practically a relation between an agency and a user. The foreigners are in fact workers temporarily assigned to some work at the user's location and in dependent employment*”.

Other findings obtained from the Czech Ministry of Labour and Social Affairs, job centres and from the field research done by La Strada ČR concern for instance the contracts of mandate, contracts of association, trade permit-based employment and the membership in cooperatives. The way of living made by some respondents that hold the long-term residence for the purpose of doing business but in fact do a job which has all features of dependent employment can be referred to as trade permit-based employment. The respondents had no direct or only mediated experience with other forms of circumventing the Employment Act. The reason is among other things that 57.1 % of the people with business visa/residence had no contract defining the conditions of the activities they were pursuing. And as these are phenomena closely associated with the debated issue we find it meaningful to describe them briefly.

Work based on a **contract of mandate** is carried out pursuant to stipulation of the section 566 and the following of the Czech Commercial Code. Based on this contract the foreigner doing the work of a cook commits themselves to arrange for another person on their account for some commercial matters in the hospitality business including the kitchen management and activities necessary for the purchase and sale of goods. It follows from the statement of the job centre that this authority believes that the purpose of stay, i. e. business, is not fulfilled if the person for whom the foreigner performs the job assigns him work and determines what the foreigner is supposed to do. The job centre also finds it contestable that the contract includes a specific remuneration for the job performed and for regular periods of time.

The association agreement is referred to by the job centre in connection with the nail studios and restaurants operated by the Vietnamese people. The job centre considers it controversial that it is in fact covert employment of sometimes even dozens of persons, the income is aggregated and all members of the association should,

after reaching a certain income, become VAT-payers, which again is within the control competency of the Tax Office.

The members of cooperatives need not take part in the industrial relationship towards the cooperative but can only have a share of the profits. The press report of the Czech Ministry of Labour and Social Affairs as of November 13, 2009³⁸ comments on it this way: *“A foreigner who is a member of a cooperative in the CR and performs for the cooperative some work following from the purpose of business activity of the cooperative need not conclude an industrial relationship if no dependent employment is concerned. It can be an industrial relationship between the member and the cooperative which is then governed by the Act No. 513/1991 Coll. of the Czech Labour Code, which is beyond the scope of the competencies of the Ministry of Labour and Social Affairs. In order to be able to monitor the job market situation these people are required to have a work permit”*. The significant fact from the perspective of the inspection authorities is that no taxation takes place as the cooperative declares before the Tax Office that no profit was generated.

It is evident that there is next to no protection of foreigners, working for a cooperative, from exploitation and human trafficking. The statutes of the cooperative can specify various ways of dividing the potential profits and the work permit of these workers is tied to the cooperative. The job centre stated that the workers changed their purpose of residence to business now while their work permits were shortened to 6 months.

The opinion of a lawyeress working for La Strada ČR is that the persons working for a cooperative based on a different than employment relationship should be eligible to enjoy the protection of the Czech Labour Code because it is a covert employment relationship. Pursuant to the Employment Act the workers commit a misdemeanour because they work illegally. If they enforced their rights, it could happen that their residence permit could be revoked because they do not accomplish the purpose of their residence. As the CIEM study suggests³⁹ **many migrants are running the risk of extradition, which could throw their families into an even bigger poverty.**

As far as other above mentioned forms of circumventing the Employment Act are concerned, the workers involved at least have the advantage that their residence is not tied to a specific employer. Enforcing any rights can in practice be even more complicated for them than in the case of an industrial relationship. All of these situations are elaborated upon in the legal analysis **Aspects under private law of the issue of employing foreigners** which is enclosed to this report as an Annex.

Travelling to the CR with study visa and subsequent work is often mentioned as another current way of acquiring a legal residence and of circumventing the Employment Act. *“The study visas are becoming an increasingly popular form of legalising the residence in the CR. For example the Uzbek people deal with arranging for this kind of visas. Some intermediaries have established links with and work for education institutes which offer studies to foreign students,”* quote from the Annual Report of the Czech Security Information Service (BIS) for 2008⁴⁰. There was only one person with this type of visa among our respondents. That is why not enough relevant information on the debated topic could be gathered, except some general findings from the field that rather confirm the above stated allegation of the Czech Security Information Service.

38...Czech Ministry of Labour and Social Affairs: http://www.mpsv.cz/files/clanky/7854/tz_131109a.pdf (December 12, 2009)

39...Nguyen Minh Thao, CIEM, Vietnam: *Migration, remittances, and economic development: Case of Vietnam*. p.source 22. : <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>. (January 14, 2010)

40...Security Information Service: <http://www.bis.cz/n/2009-08-31-vyrocní-zpráva-2008.html> (December 12, 2009)

Rates for services

As a consequence of the crisis measures were taken last year to limit the issue and extension of work permits for foreigners. At the same time the Czech Consulate in Hanoi suspended issuing work visa. As a consequence of redundancies and collective changes of the purpose of residence to other types of visa/residence (especially to the business purpose) there was a year-on-year decrease of the Vietnamese registered by the Czech job centres by 78.8 % (from 18 389 people in September 2008 to 4 195 people in September 2009)⁴¹. Due to this the Vietnamese community (but not only this community) showed a much stronger interest in gaining or extending the business visa/residence as one of the few ways of staying legally in the CR. In consequence, **the prices for arranging for the residence affairs went up.**

The field informants found that in 2009 the charges for gaining/extending the business visa on the territory of the CR amounted to 16 – 30 thousand CZK whereas within the Vietnamese community these charges ranged from approximately 25 thousand to as much as 70 thousand CZK (this amount includes the payment of insurance premium, though). The respondents interviewed within our investigation paid about the average of the above given interval. Respondent no. 9 said this: *“Actually, it cost me around 40 thousand. The extension was 32 thousand and the trade permit 10 thousand”*. The interviews did not include the question on the amount of these services but judging by the gathered findings it can be assumed that the Vietnamese intermediaries can capitalize on the stronger isolation of the people from their own community and thus charge more money for their services than what is common within other nationalities.

Preferring “businessmen”

What also followed from the conducted interviews is that the agencies and companies obviously prefer workers with the businessman status (i.e. foreigners staying in the CR based on the business visa/business residence) or people with permanent residence. The people with the permanent residence status offer their employer the advantage that they need no work permit. In terms of the people with the business visa/stay they bring their employers the advantage that the company need not make payments for the employees to the state, the company bears no responsibility for them and has no commitments towards them, if there is not enough work, they can be got rid of quickly and without any further cost (“flexible” workforce). These “businessmen” are for the agencies and employers an even more advantageous workforce than people with the permanent residence.

Moreover, they need no work permit and if the company wants to govern the placement of them in the plant in a contract, it can be arranged for through an agency or using one of the above mentioned methods of circumventing the Employment Act. Within the hiring process, people with the work visa/residence are often discriminated against – they are an expensive and rather inflexible workforce and the workers with the businessman status are not under the protection of the Labour Code.

41...Czech Statistical Office: [http://www.czso.cz/csu/cizinci.nsf/t/8F005D7FB9/\\$File/c05r01.xls](http://www.czso.cz/csu/cizinci.nsf/t/8F005D7FB9/$File/c05r01.xls) (December 13, 2009)

ASPECTS UNDER PRIVATE LAW OF THE ISSUE OF EMPLOYING FOREIGNERS

(Lucie Frejková)

Annotation

The Labour Law like other legal branches has a typical specific method of governing the societal relations and it is a historic fact that the Labour Law integrates the methods of governing the societal relations of the Private and Public Law. The method of governing under public law is employed where social rights are specified. By definition, the Labour Law rather prevails to be of private law type. Therefore, the following text is focussed on aspects under private law of the issue of employing foreigners. A strong emphasis is laid on the fact that enforcing rights ensuing from industrial relations with regard to foreigners is in fact equal to zero.

Introduction

The Employment Act stipulates that pursuant to the Czech Labour Code the capacity to be an employee should be under the same conditions for foreigners as for Czech citizens. The same applies to the legal protection of employees. The Code stipulates that foreigners should have exactly the same rights and obligations as other employees. But what is the reality? What is the principle of the aggravated or bad labour conditions of foreigners? I believe the problem does not lie in the number of rights that foreign employees have but in the access to them. A significant problem is the ignorance of the rights.

Foreign workers do not speak the local language, do not know their rights and sometimes not even their employers, superiors and do not know how to defend themselves against the attacks on their rights⁴². Many a time they only know the intermediary. I am convinced that - apart from the government institutions and employers - foreign employees must also bear their share of responsibility. It is undisputable that their aggravated position as compared with Czech employees consists in their frequently existential dependency on a job.

I still believe that apart from looking for more labour efficiency of the state institutions, greater responsibility of the employers or cultivating the intermediaries it is also necessary to seek very intensely industrial emancipation of foreign workers so that they are in the position to defend their rights themselves. Given that fact that government institutions supervising the industrial relations cannot decide on the entitlement of any employee to a payment, it seems to me that the problem is that foreign employees actually do not enforce their entitlements towards their employers judicially and there is thus a minimum pressure on the employers for fair treatment. What are the causes of the passivity of foreign employees and how could their situation be improved?

Industrial emancipation of foreign employees

When arriving in the Czech Republic in order to improve their economic situation the employees only have at best some fragmented information from the intermediaries about what is required by the Czech legislation for gaining a residence permit and the work or business permit. The information they have about social security and health insurance is mostly provided by intermediaries, too, and is neither correct nor complete.

42...For this reasoning the author uses the information gathered in the interviews with the Vietnamese migrants

Other knowledge of the foreigners in the field of industrial regulations is even worse. They are not able to tell the difference between doing business and having dependent employment and they only realize the exploitation and abuse on the part of the employers and intermediaries by comparing their situation in the workplace to the situation of their colleagues. Sometimes the foreigners cannot tell the difference between an agency job and work right for an employer. It is relatively common that the employer withholds the documents from the foreign workers. If the foreigners conclude a contract governing their labour conditions, this contract is written in Czech which the foreigners do not understand. There is no doubt that the language barrier and cultural differences play the biggest role here.

The information gathered during the interviews with the Vietnamese migrants shows that they acquire their knowledge concerning employment opportunities in the CR from various and diverse sources. Even when this source is their relative living in the CR, the information is very fragmented and misleading. The respondents are rather startled by the imbalance between their expectations and the reality.

The protection of foreign workers is at a low level because they do not require it themselves, sometimes from prosaic reasons as they have no idea that any protection is available. Not to mention the fact that they have no idea how to enforce this protection and whom to turn to. Such an employee is then easy to abuse and bully both on the part of the intermediaries, employers and public institutions. On the other hand the government inspection bodies can hardly protect such employees because they have difficulty getting information about them. For the reasons given above these foreign workers do not initiate any action or investigation.

For the situation to get better continually and in the long run it is necessary to support the industrial emancipation of foreign workers as broadly as possible. To this end it is fundamental that the language barriers be overcome. The above mentioned employees mostly have no access to the media like the Internet and suffer from the lack of time because many a time they work 12 hours a day or more. For the language barriers to be lifted efficiently the state institutions must seek target-oriented and individual solutions. That is the only way to spread education efficiently and in a pragmatic way.

Attitude of migrant workers to judicial proceedings in labour disputes

In terms of enforcing the rights in industrial relations the current situation can be summed up as follows:

1. Enforcing industrial entitlements before court. The disputes between the employers and employees, concerning the individual entitlements following from industrial relations, are debated before court whereas the system of the courts is governed by the Constitution of the Czech Republic (Act No. 1/1993 Coll.); the judicial proceeding procedure is governed by the Civil Procedure Code (Act No. 99/1963 Coll.)
2. Enforcing industrial entitlements by complaining to the Labour Inspection. If the entitlement following from this industrial relation is unequivocal, it can be enforced indirectly by complaining to the respective Labour Inspection Office if the complaint is formulated as an instigation for inspection. However, the inspections to check the compliance with industrial regulations cannot substitute for the decision-making about individual entitlements and disputes between the employer and the employee. An intervention by an inspection body can thanks to its authoritative decision help clear the contestable situation between the parties and help to avoid judicial disputes. However, the precondition is that both the parties accept the conclusions of the inspection findings.

The employers are motivated to fulfil the entitlements of their employees by means of the threat of sanctions too - imposing a sanction by the Labour Inspection Office. If such a sanction still does not make the employer

correct the found defects and shortcomings, the employee can use the findings of the Labour Inspection as evidence before court. The evaluation of such a proof is at the court's discretion that needs to agree with the given findings."

3. Enforcing industrial entitlements using the inspection conducted by respective trade union bodies. It is true for this case too that a legal dispute can only be prevented if both the parties respect the conclusions drawn from the inspection findings.

4. Turning to the Ombudsman. A party to a potential industrial dispute can solve the dispute extrajudicially and thus reach the rightful entitlement following from the industrial relation by turning to the Ombudsman. The Public Defender of Rights is an institution that provides a larger number of counselling services and has competencies in that field of industrial relations in which the Labour Law interferes with the public affairs.

The anti-discrimination legislation empowers the Ombudsman to act in the matters of discrimination and industrial affairs. It is of particular interest that his competence now encompasses the provision of methodical assistance for the victims of discrimination, in filing the petition to commence the proceedings because of discrimination. It is again true for this case that the decision of the Ombudsman cannot substitute for the decision of the court.

Anybody who want to enforce their rights and resolve to use a judicial dispute for that purpose should consider several significant facts. Especially if the steps described above turned out to produce little effect. A foreign employee must frequently first answer one fundamental question - the length of a judicial dispute, potentially the length of the execution of the decision because of the limited length of stay in the CR. It is essential to consider if the foreign worker can stay in the CR in future and complete the judicial litigation despite the fact that a legal representative is appointed.

Within these deliberations it also needs to take into account that the execution of a decision can be suspended because of lack of money on the part of the employer.

Another frequent and fundamental problem for the employees is the ability to bear the burden of proof, relatively high financial expenses and the uncertain result of the judicial decision.

All of the above given information influences whether or not to initiate a judicial dispute. On the other hand it must be stated that this is the safest way to enforce a rightful entitlement and resolve an industrial dispute. Furthermore, the petitioner can in accord with the provision of the Act No. 99/1963 Coll., Civil Procedure Code, ask the court to exempt the petitioner from the court charges if the living circumstances of the petitioner justify that. The reason for exempting from paying the court charges can be pressing financial or social situation. The Chairman of the Senate can revoke the exemption any time during the proceedings and also retroactively if it turns out before closing of proceedings that the living circumstances of the petitioner do not or did not justify the exemption. The exemption from court charges does not apply to the charges paid before the resolution about exemption. Therefore, it is most suitable for the applicant to apply for the exemption from court charges right at the start of the court proceedings, i.e. when filing the action.

If the application is turned down, it is possible to withdraw the petition and not continue the dispute any longer. If the party exempted from the court charges is appointed a legal representative, the exemption applies within the determined extent to cash expenses of the legal representatives and the remuneration for the legal representative. The party that meets the requirements to be exempted by the court from court charges is assigned by the chairman of the court a legal representative upon the request of the party if this

is necessary for the protection of its interests.⁴³

The most pressing problem of the current workers is covert employment relationship when a foreigner obtains the residence permit in the Czech Republic based on a business permit, be it the membership in cooperatives, trading company or trade. The purpose of this is mostly to circumvent the legislation. After gaining the necessary permits the employees have dependent employment either right with an employer or an intermediary.

A covert employment relationship is concerned if the following conditions are met: a domestic economic entity prescribes a foreign worker with business visa the amount of work, skills and other requirements on the worker, total hours of labour, manages and supervises the worker, determines his/her tasks, place of work which is under his/her control and responsibility, the remuneration depends on the number of worked hours and the volume of work done, provides the worker with the material, the tools, personal protective equipment, etc. But it is also true that not all of the conditions need to be met at the same time in all the cases. The most important are the two first features.

If an Inspection Body comes to inspect a workplace where foreigners perform work in a covert employment relationship, the economic entity mostly states that the foreigner carries out the job in question based on an oral agreement about completing a job. This argumentation is very difficult to refute before the foreigner and the Inspection Body. Because of the language barrier, the inconvenient economic situation and strong dependency on the employer, the employee has difficulty accumulating evidence necessary for a potential dispute.

If the dependent employment is not carried out in an industrial relationship, the new Labour Code offers a solution in the form of the provision of the section 18 which in terms of legal acts refers to applying the provision of the Civil Code, among other things also the provision of the section 41a. The provision stipulates that if an invalid legal act has the elements and formalities of another valid legal act, it is possible to invoke it if it is evident that it expresses the will of the acting person. It also stipulates that if one legal act is to hide another, this other legal act is valid if it expresses the will of the parties and all the elements and formalities thereof are fulfilled. The will of the parties does not concern the form but the contents of the legal act - the agreement. Based on this it could be concluded that the contract under commercial law has in fact the nature of a covert employment contract.

If it is a covert employment relationship, this natural person being in dependent employment has the right to invoke the legal protection to the extent provided by the Labour Code even if this natural person is a foreigner. If the natural person does not prove the existence of dependent employment, the relationship between the supplier and the customer of the job in question is governed by the Civil Code and the Commercial Code. In such relationships the natural person has an inconvenient position as compared with employees because most relationships between entities are governed by subject responsibility, i.e. it is necessary to prove the fault of the customer, which is very difficult in the field of occupational safety. Moreover, as this person does business at their own risk and responsibility, it is up to this person to create their labour conditions. That is why the contracting skills of the businessmen are so important. It cannot be expected that the foreigners coming to the Czech Republic with business visa from countries outside the EU have the necessary knowledge.

If a regular employment relationship is concluded between the foreign worker and the employer, it is much easier to enforce some entitlements like the payment of extra hours at work, bonus for extra work or work

43...Wording of the Act No. 99/1963 Coll., Civil Procedure Code, provision of the sections 30 and 138.

at night, adhering to the working hours schedule, holiday, etc. The position of an employee enshrined in a written contract gives the advantage that the conditions are agreed upon in writing which and are a good starting point for providing these employees with legal help, even before court.

Measures to improve the situation of foreign employees

The insufficient activities of the public institutions in this field result in maintaining and supporting this illegal state. The current scope and frequency of illegal interventions on the part of the employers and job intermediaries into the rights and entitlements arising from industrial relations of foreign employees are alarming. It is essential that all participating parties adopt such measures that make it possible for the foreign employees to efficiently acquire the necessary skills and knowledge and preferably defend their rights on their own.

To achieve and ensure the above stated situation I mainly recommend the following:

- to focus on systematic and targeted language teaching among labour migrants and on lifting the language barrier, esp. during the negotiations with the public institutions by providing interpreters at specified office hours for negotiating with the state institutions,
- to raise the awareness of the foreigners of their rights and obligations, of organising activating courses in the industrial field in the mother tongue of the foreign employees,
- to guarantee access to legal counselling,
- to monitor the conditions of the access of the labour migrants to the courts,
- to provide lawyers that would represent these employees in industrial disputes and ensure the compliance with the rights guaranteed by the Czech Legal Order,
- proposal de lege ferenda to amend the Labour Code to make it possible again for the employers to lend employees to each other without intermediaries and to make the job market more transparent,
- proposal de lege ferenda to amend the Act No. 549/1991 Coll., namely exempting foreigners from court charges in industrial disputes,
- proposal de lege ferenda to introduce a binding legal assumption that would set such conditions under which an employment contract would be automatically established if these conditions were fulfilled.

SUMMARY AND RECOMMENDATIONS

SITUATION OF VIETNAMESE WORKERS IN 2009

Summary

The Vietnamese workers paid the official mediatory agencies or unofficial companies or individuals as much as **14 000 USD** for mediating a job. They got the money for these charges mostly from banks by putting their real estates (houses) into the pledge of the banks, based on the mortgage bond “so do”. They became strongly indebted and must pay these debts off.

Decrease in industrial activity and money-saving measures of businesses during the crisis resulted in massive redundancies of the agency employees. As a consequence **thousands of the Vietnamese workers** suddenly **found themselves jobless and moneyless**. Those workers that arrived later on when the crisis and the shortage of employment opportunities were becoming more evident mostly ended up in boarding houses and apartments that were provided by the intermediaries but never found a job. During the most massive lay-offs the heavily proclaimed **self-sufficiency of the Vietnamese community in the ČR manifested itself as the community managed to organise humanitarian aid for the laid off workers and** helped up to 7 thousand people survive the winter.

Some agencies and intermediaries capitalized on the desperate situation of the laid off workers in order to start **trading with employment opportunities**. However, the charge for the job mediation is **no guarantee that** the workers cannot lose their job **again after some time**. As there were no employment opportunities, the Vietnamese migrants **legalised their stay in the CR by changing the purpose of residence to business** even they pursue no business in reality. **High costs associated with** gaining the business license and social security and health insurance premiums have **become another financial burden** to the Vietnamese who came here strongly indebted and have no job or income to help them sustain their pure living.

The only objective the workers pursue is to find a steady and paid job that would enable them to repay the bank the interests and principal. **Returning to Vietnam with unpaid debt is out of the question for them**. That is why the *Programme of Voluntary Returns*⁴⁴, established by the Czech Ministry of the Interior **with the goal to assist the foreign workers that were laid off in consequence of the economic crisis** was only taken advantage of by a negligible percentage of the Vietnamese.

RECRUITMENT IN THE COUNTRY OF ORIGIN

Summary

The people brought to the Czech Republic are mainly from the Vietnamese countryside, have no actual idea about the real income in the CR and about their rights and obligations. Most of these workers said that they had a rather general idea about the CR as a stable and friendly country. With regard to the lack of information about the CR respondent no. 4 said: “... *if I had had enough information about such a life, I wouldn't have come*”.

One respondent interviewed before the inquiry in Vietnam (VN 6) noted that: “*There is absolutely no objective information available. Most agencies provide slanted information or do not give the workers*”

44...<http://www.mvcr.cz/clanek/migrace-novy-clanek-890951.aspx?q=Y2hudW09NQ%3d%3d>

some basic information on purpose". When asked who spread the information about the CR in Vietnam the respondent replied "*The information is mostly spread by the mediatory agencies that slant the information and do not provide complete information to the job applicants*".

The Vietnamese government has been supporting the labour migration in the long run and has been formulating the rules to some extent. "*... because the government tries to lower the unemployment rate this way,*" (VN 2). And **based on the job mediation rules established by the Vietnamese government a deposit is specified in the contract between the Vietnamese agency and the Vietnamese workers in the CR** (mostly 1 000 - 2 000 USD). The deposit **can be returned after working three years in the CR**. With regard to the valid Czech legislation the agency cannot guarantee them a job for this period of three years.

In terms of the contractual assurance of the promised conditions **some respondents had a mediatory contract and signed a new contract in the CR** (over 43 % of them in Czech). The respondents with business visa many a time only had an oral agreement with the mediator.

Subconclusions and recommendations

Despite the fact that the export of labour force is governed by the Vietnamese legislation, **the applicants for work abroad are lacking information about the actual situation in the CR**. In reality the only source of information to them are the unobjective recruitment campaigns of the agencies. The Vietnamese government does not govern these campaigns and the Czech government does not provide the potential labour migrants with enough information. The responsibility should be borne by both the parties because the Vietnamese government has interest in exporting its labour force and in the past the Czech government officially declared its interest in the inflow of labour force from Vietnam. **Both the Vietnamese and the Czech parties should take part in establishing an efficient system of providing objective information about the situation on the Czech job market.**

Some Vietnamese workers paid a deposit which is in fact a coercion mechanism of keeping them abroad for at least three years. The deposit amounts to approximately 10 – 30 % of the total loan on which they must pay interests. **With regard to the debt the migrants owe in Vietnam and with regard to the fact that it is not possible to guarantee a three-year stay and job in the CR the deposit is a purposeless and inhuman act** even if it were paid back by the agency.

AGENCIES IN VIETNAM AND WAYS OF FUNDING THE JOURNEY TO THE CR

Summary

66.7 % of the respondents had their journey to the CR intermediated by the agency. Other workers stated that their journey was mediated by a natural person who knew how to arrange for the necessary documents. Most of them paid for this service more than 7 000 USD. The average amount ranged from 7 001 to 11 000 USD (53.3 % of the respondents). And 13.3 % of the respondents paid an amount between 11 001 and 15 000 USD.

Based on the findings of the investigation research of the La Strada ČR carried out in 2008 we tested the **hypothesis if there had been a continual increase in payments for the mediation of the journey to the CR. This hypothesis was not corroborated** in the investigated sample.

The Vietnamese workers who want to come to the CR to work put their properties into the pledge of the bank through the mortgage bond "so do". This pledge often: "*... includes not one property but three or four properties*" (resp. no. 1). Based on this they obtain a loan for paying the charges to the intermediaries or agency. **If they returned to Vietnam again, it is not conceivable for them to repay their debt. If they do not**

repay the debt, the bank will seize their property. The interconnectedness between the bank and mediatory agencies was not confirmed during the investigation.

The interconnection of the Vietnamese government and the agencies exporting the labour force exists at least to the extent that the export is also organised by some regional authorities, having the registration of the Vietnamese Ministry of Labour. “*The employees of the municipality came and announced recruitment for work abroad. The employees themselves recruited, we did not pass through any intermediary,*” noted for example respondent no. 6.

The findings suggest that **the governmental initiative is focused on setting the rules and supporting the system of funding this export** (regulating of conditions of loans in state-owned banks) rather than on its coordination.

Some of the interviewees arrived in the CR with work visa and when the Czech job centre stopped extending the work permits they were forced to change their purpose of residence to business in order to be able to stay legally on the territory of the CR.

The people with work visa mostly conclude an agreement about job intermediation with the Vietnamese agency pursuant to the Vietnamese legislation - the agreements for instance include the promise of a job for three years. The employment agreement concluded with the Czech party is in better cases for one year. In the CR the wage conditions and other stipulations can change in the agreement. **The workers mostly sign the agreement in Czech** and in a situation when they are **under pressure** because **if they refuse to sign the agreement, they will not be taken on by the employer and** because of not fulfilling the purpose of residence they **can lose their legal residence status.**

The services delivered to persons **with business visa** were mostly reduced to arranging for the necessary documents and for the journey to the ČR. The client knew beforehand that they had to find a job in the CR on their own. After arriving in the CR some respondents got in touch with the contact person in the CR who offered them a job which they could but did not need to accept. If there is enough work, the business visa offers its holder more freedom when choosing the job and labour conditions and to leave or change the workplace arbitrarily.

The information about the chances of winning a legal dispute when enforcing contractual commitments from the agencies in Vietnam is inconsistent. Claims towards the job agencies and intermediaries can only be put forward by those who entered the CR with work visa and through entities with which they had concluded an agreement.

Subconclusions and recommendations

The amount paid for the journey to the CR and the service package delivered for this amount obviously depend on the rates of the individual agencies and intermediaries, less on the development over time.

The shortage of objective information in Vietnam is one of the causes why the Vietnamese are still coming to the CR despite the fact that the situation on the Czech job market has dramatically changed in the past year and a half. This is also corroborated by the CIEM analysis which states that it is necessary to: “... *ensure the workers’ rights so as to prevent the exploitation thereof and make the migration safe and beneficial for people ... the government should do away with all forms of exploitation and abuse of labour migrants...*” and “... *establish specialised institutions which would deal with the issue of migration and provide information and knowledge to labour migrants.*”⁴⁵⁾

45...Nguyen Minh Thao, CIEM, Vietnam: *Migration, remittances, and economic development: Case of Vietnam.*
s.source 23. : <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>. (January 14, 2010)

The export of labour force from Vietnam should be linked with the long-term national socio-economic development strategy, mainly with dealing the employment issue – see the recommendations of the CIEM study too⁴⁶.

“The quality of labour force export must be boosted ... the workers’ skills improved ... and the issue of returns and reintegration of labour migrants dealt with.”⁴⁷

If the conditions are not met, the Vietnamese agencies should be forced by the Vietnamese government to compensate the workers for the damages which were done to them. Besides the deposit they should be returned the money for the unsuccessful job mediation. The question is to what extent the commitments of the intermediaries arising from these agreements are enforceable in Vietnam. The promises and conditions in the mediatory agreement from Vietnam are many a time formulated so vaguely that it might be very problematic to enforce them.

The Philippine system Philippine Overseas Employment Administration (POEA) could be used as a **model of good practice** and as a **basis for setting the rules and functioning of the system**⁴⁸.

CZECH CONSULATE IN VIETNAM

Summary

Not all respondents took part in the interview at the Czech Embassy when applying for the visa – only 28 out of 30 respondents. This suggests that at least in the past there could have been alternative ways of obtaining the Czech visa. The opinions of the respondents of the Czech Embassy in Hanoi differed. They ranged from positive views to strictly negative.

The conditions of the interviews at the Embassy differed strongly, too. **Some respondents said that the interview was in Czech and with no interpreter and they had received the questions from the agency beforehand, other respondents had an interpreter at their disposal and were asked questions in Vietnamese.** Some others noted that they did not have to take part in any interview at all and only submitted their documents through a window over the counter: *“According to the number I went along and handed in my file that I received from the intermediary and gave it to them through the small window ... I did not have to answer any questions, they asked me nothing,”* said respondent no. 12 who obtained the business visa in March 2008. These differences also appeared among people with the same type of visa.

The respondents agreed that **it was very difficult to be invited to the interview:** *“We had to be awake from eleven at night until eight in the morning, until the start of the office hours. We had to be there and occupy a place in the queue ...”* (resp. no. 4, year 2008), or: *“I queued up for several days ... Some were there four or five times and still did not manage to get inside ... I was lucky that I was received for the first time. That was thanks to the agency ... you give a few million to some people in the agency and they take care of your place in the queue,”* (resp. no. 3, year 2007).

After the electronic ordering system was introduced, the situation in front of the Embassy probably improved. However, the respondents interviewed within the inquiry in Vietnam point out that the **Internet ordering**

46...Nguyen Minh Thao, CIEM, Vietnam: *Migration, remittances, and economic development: Case of Vietnam*. s.source 22. : <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>. (January 14, .2010)

47...Nguyen Minh Thao, CIEM, Vietnam: *Migration, remittances, and economic development: Case of Vietnam*. s.source 23. : <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>. (January 14, .2010)

48...<http://www.poea.gov.ph/>

system (VisaPoint) poses a major barrier for people living in the countryside, with low or no computers skills.

While the issue of long-term visas was suspended some intermediaries and agencies managed to use the consolidation of the family and study visas for the purpose of exporting the labour forces. The possibility of multiple gaining of work and business permits for the Vietnamese at the Czech Embassies in other Asian countries was outlined, too. Nevertheless, the hypothesis was confirmed by no respondent interviewed within the inquiry in Vietnam.

All respondents remarked that **it is not feasible for the workers to arrange for all the necessary documents and the journey to the CR without an intermediary or agency.** The main reasons are the shortage of information, complicated administrative procedures and impossibility to contact right the potential employer. Czech businesses are mostly reluctant to hire foreigners as their permanent staff. And the experience of some companies shows that even if they wanted to find labour forces right in Vietnam, it was allegedly impossible to gain the visas without the intermediaries.

Subconclusions and recommendations

A better functioning of the VisaPoint system could be facilitated by and its abuse on the part of the intermediaries, demanding further illegal charges from the persons interested in getting a job in the CR, could be reduced by an initiative of non-governmental and intergovernmental organisations in cooperation with the Vietnamese state which evidently has interest in exporting its labour force. **Establishing centres with free access to the Internet would eliminate possible troubles arising from computer illiteracy of many of those who want to work in the CR.**

The Czech Ministry of Foreign Affairs should **monitor the transparency of the processes and equal conditions during the issue of visas at the Czech Embassy in Hanoi.**

The situation could improve by means of **better communication between the Czech and Vietnamese side and the support of direct hiring of labour force in Vietnam by Czech businesses** (preferring hiring skilled or trained labour force into the permanent staff of the companies).

AGENCY IN THE CR

Summary

The investigation showed that **among the persons who came to the Czech Republic less than a year ago (i.e. during the crisis) the unemployment rate is higher.** In the group of people residing in the CR for less than a year the unemployment rate exceeded 66%, the unemployment rate among those who arrived more than a year ago was 27%.

The **mediatory service “dich vu” has been gaining importance in the job intermediation and in the legalising of the stay.** It is natural persons or legal entities originating from the Vietnamese community that can recommend a worker or arrange for documents but need not provide jobs themselves. It means that they do not need any license for job intermediation.

One recommendation of the report on the investigation of the La Strada ČR organisation in 2008 was also to verify the issues of mutual **collaboration of the agencies in Vietnam and the CR.** The interconnection of the agencies is based on the division of labour when one **party arranges for the recruitment, visas**

and the journey and the other party arranges for the permits, jobs and housing. The agencies share the profit - charges collected from the migrants.

This cooperation can take place at several levels when several major legal entities participate in the job order. And each of the participating entities wants to maximize their profit on the transaction in this complex system. There are also agencies which only operate in one or another state and do not provide comprehensive service for labour migration.

The charges collected in the CR for the job intermediation increased in the times of the crisis. However, it is not certain how long the workers will have the job they have now. **If they lose the job, they must pay the intermediary again** for mediating another job.

Subconclusions and recommendations

At present the Vietnamese workers (mainly those with the business visa/residence) are mostly reliant on the mediatory services delivered by persons without necessary licences to pursue this activity, i.e. persons beyond any control of the government. The intermediaries arrange for extending the stay, placing the workers into factories, etc. This type of services is costly and the result is never certain. As this is an unofficial activity these entities can hardly be punished in real life when not meeting their commitments.

If the workers do not want to lose their jobs (and permit to stay here legally), after arriving in the CR they are forced to sign employment agreements even in Czech which they do not understand. **It would be appropriate to enact that the employers be obliged to conclude the contract in the language that the person in question understands.** Mainly with regard to these job agencies it would bring about marginal increase in administrative costs.

In terms of arranging for housing issues and looking for jobs, it might be helpful to extend the **services of gratuitous counselling for the Vietnamese** that is now carried out by non-governmental organisations **and the counselling concerning the ways to find a job legally or help the people with the business visa/residence assert themselves on the market** (job clubs).

LABOUR CONDITIONS

Summary

While the investigation was being carried out, the impacts of the crisis were becoming evident, which brought about a **major drop in employment opportunities vacant for foreigners on the Czech job market.** Out of all interviewees **36.7 % were unemployed**, basically from several weeks to several months.

Under such conditions some respondents with the business visa (those not tied to one employer) **were willing to accept even badly paid jobs.** One respondent worked seven days a week from 9 am to 9 pm, a total of 350 hours a month. For this work he was paid a net income of 8 000 CZK and given the meals for free. Converted to hourly rate it is approximately close to but less than 23 CZK for an hour.

Some agencies and companies lowered the hourly rates and due to the shortage of job orders some workers can only work two or three shifts a week.

50 % of the respondents (with work and business visa/residence) had an income less than 15 000 CZK a month. 23.3 % had an income above 15 000 CZK a month. Others had no income or did not state its amount. The persons staying in the CR based on the business visa/residence mostly (but not necessarily)

belonged to the group with higher earnings but they had to make advance payments for health insurance and social security or pay taxes and charges for extending their residence.

In case of **62.5 %** of the respondents in the employment relationship **not all components of the wages were paid out** – they were **not paid out extra pay or bonus, for overwork, sickness benefit** and/or they were deducted various **“advance payments”** and **amounts from the wages**.

We also registered cases when the unemployed **worked with no entitlement to the wages - they were only given the meals and provided with housing**. For some of them it can be a matter of survival. Most respondents that had a job were afraid that they could lose it. Some state that they only found a job thanks to the seasonal works and **had to be financially sustained by their families in Vietnam through the winter**.

Subconclusions and recommendations

As compared with 2008 the situation changed to the effect that the factories need less labour force and the workload among the Vietnamese workers is generally lower. There is a high percentage of the unemployed in this community. Therefore, it would be appropriate to take advantage of this situation and **offer those who are interested in it a chance to improve their skills, knowledge of Czech and to organise integration courses** (facts about the CR, basic information about the life in the CR, minimum knowledge about the industrial relations, etc.) because **most of them will stay in the CR more or less voluntarily another few years**.

This would open up opportunities for them to seek jobs in an alternative way and **would reduce their dependency on the intermediaries and agencies**. At the same time it would be possible to **better employ their potential and abandon the shadow economy** which now represents huge financial losses for the state and high profits for certain criminal or semi-criminal structures. These measures could also serve as **prevention against exploitation and human trafficking in the Vietnamese community**. Based on the information of the non-governmental organisations dealing with these activities the demand on the part of the Vietnamese community is exceeding their capacities even now (e.g. information from the the Klub Hanoi civic association).

Next it is unconditional that **the migrants be better informed about the legal and industrial aspects before leaving for the Czech Republic**. This should be the task of the non-governmental organisations, the Czech government and the enterprises employing the Vietnamese as cheap labour.

LIVING CONDITIONS

Summary

The living conditions of the Vietnamese labour migrants differ depending on whether they are employed, what kind of work they have and depending on their income. Recently there has been a trend to **move from boarding houses into apartments which are in most cases leased to them by Vietnamese intermediaries**. Even though these apartments are mostly comparatively overcrowded (e.g. eight tenants in a three-bedroom apartment), none of the respondents complained about outright bad conditions. The respondents mostly paid about 2 000 to 3 000 CZK a month for the intermediated apartments. The costs for the meals were about the same in case of all respondents.

Some of the Vietnamese who lost their jobs were moved out of the company boarding house by the agency. These then depend on the help of their countrymen that let them sleep in the boarding houses or let them

live for free in their apartments until they find a job and start contributing to the rent. There are also cases **when some of them have ended up homeless and follow conventional strategies of the homeless people** – they sleep for example in car wrecks, in parks, under the bridges, etc. **Nevertheless, they do not use the services of the organisations aimed at the help of the homeless.** Only exceptionally can the unemployed stay in the agency boarding house and wait until the agency finds a new job for them. The housing payments are then deducted from their wages.

Besides regular costs on housing and the meals the unemployed are forced to “provide for their papers” and pay high fees for job intermediation. Sometimes they are not even paid for their work. Simultaneously their debts in Vietnam are rising. Unless the situation on the Czech job market changes in near future, **the community cannot be expected to help these people out in the long run.**

Mainly the Vietnamese who travelled to the CR in the app. last two years **have no real access to the services of non-governmental organisations nor to any information about dealing with difficult life situations and about how to defend oneself from exploitation by the intermediaries and agencies.** Thanks to the fact that the activities of some assisting organisations are more focussed on addressing this target group the situation could gradually improve. With regard to the large number of potential customers there are still comparatively few such activities. **None of the interviewees had any experience** (neither direct nor intermediated) **with the Czech assisting organisations nor trade unions.**

60 % of the respondents had experience with the Czech authorities and none of them stated to have experienced corruption or discrimination on the part of the authorities. It was mostly inspections carried out by the Immigration Authorities or personal visits to some authorities when arranging for some administrative procedures.

Nearly half of the respondents (regardless if they had a job or were jobless) **expressed their wish to repay their debts and go back to Vietnam.**

Subconclusions and recommendations

At present **most Vietnamese workers are beyond the scope of activity of the assisting organisations,** and if they find themselves in some difficult life situation, they still mainly rely on the support from the community. Their **awareness of the existence of the non-governmental organisations, social services and trade unions is also very low.** They thus lose the opportunity to ask for help when enforcing their justified rights and solutions to their problems.

If they contact some of the assisting organisations, then usually based on references from the community (as experience of the civic association Klub Hanoi shows for instance. Its free consultation represents one of the few services used by this group).

This state of affairs could be changed by **extending the offer of social services to the Vietnamese labour migrants (including interpreting) and strengthening the open components of social work concentrated on this target group – above all field social work.**

By means of field work it would be appropriate to offer the Vietnamese **sufficient information predominantly from the areas of labour and immigration law including contacts with relevant organisations and institutions. All this with respect to the language barrier** of these persons, which turns out to be one of the major points limiting their access to social services.

Among other things, this is also proven by experience of the field team of **La Strada CR.** Since 2006

the organisation has provided this type of open consultation to foreigners who are at risk of human trafficking and exploitation. **For most of these people, meeting the field worker means the first contact with a Czech assisting organisation** (in the framework of the research this was true of 100% of the persons).

MECHANISMS AND INSTRUMENTS OF EXPLOITATION DURING THE ECONOMIC CRISIS

Summary

In 2009 a significant share of Vietnamese workers was forced to change their residence purpose to business due to a major decrease in the number of jobs announced by companies as being vacant for foreigners. Other persons arriving from Vietnam in the CR to work held mostly business visa, as well. **Therefore, besides finding work, maintaining their residence legal became essential for them.**

However, persons without necessary information, contacts and language skills cannot manage the whole administrative process from obtaining the accommodation certificate, renewing the residence through to filling in and handing in the tax return. Compared to previous years, the importance of job agencies has thus decreased, while the importance of the **mediatory service (dich vu) has grown**. At the same time, these intermediaries mostly offer to mediate work, accommodation, interpreting, legal consultation and other services. **The fees for each of these services are fairly high** – for instance, an accommodation certificate costs 10 000 CZK, a residence renewal with additional payment of insurance and tax cost up to 60-70 000 CZK, etc. **The intermediaries take advantage of the isolated and uninformed migrants offering them overly expensive and in some cases low-quality services.** Currently, there are no checking mechanisms for the activities of these intermediaries (they are not subject to the registration of the Czech Ministry of Labour and Social Affairs). The question is, therefore, based on what could their deceived clients claim that the promises are kept.

Some employed are in a situation of having occasional jobs to **earn money in order to maintain the legal status** – “they provide for their papers”, so to say. Many have to turn to their families in Vietnam and ask for financial help. **Instead of migrants sending money to their families in Vietnam to pay back the debt, the families have to send the money to them to the CR** and the original debt grows even more.

In the investigated sample, predominantly job intermediaries were identified as those exploiting the Vietnamese most often – **dubious Vietnamese dich vu, Ukrainian and Czech intermediaries** as well as **official agencies**, but also **interpreters** or **firm owners** themselves. **Withholding a salary/wages** was mentioned by 16.7 % of those surveyed – mostly in the form of not paying the persons with business visa/residence for the work done. **The failure to pay all statutory components of the wages** occurred in case of 62.5 % of the respondents with work visa/residence. A total of 13.3 % of the respondents was **threatened on the part of the employer/intermediary** as well as **harassed and treated unfairly**. Most often they were threatened with a job loss if the contract were not signed in Czech they could not understand. One respondent stated that their **employer restricted his movement. No respondent was confronted with a physical violence on the part of the employer.**

The strong economic motivation – high debt in Vietnam – results in the fact that a significant share of the surveyed was determined to persevere in the CR whatever the conditions until the situation on the labour market improves and they will be able to **earn at least for the repayment of the amount for the intermediation of travel to the CR**. Afterwards, however, they want to return to Vietnam. “As soon as I earn the money I invested in order to come here (to the Czech Republic) I will return home,” stated respondent no. 20, for instance.

The **unclear competences of persons** with whom the workers deal are another important factor, be it interpreters who can manipulate workers because their work is checked only seldom, or superiors at work, for example. It was often mentioned in the interviews that if the worker needed something or required pay for their work, people from the agency would refer them to interpreters or vice versa and no one would be willing to solve the situation with them. Only 30 % of those interviewed stated that they had information about their rights and opportunities in the CR.

40 % of the respondents indicated as well that they had no experience with Czech public authorities – regardless of the length of their stay in the CR. **None of the respondents had any experience with Czech non-governmental organisations and trade unions.**

According to the insights of the Ministry of Labour and Social Affairs, job centres and field work, the most frequent **ways of circumventing the Employment Act. No. 435/2004 Coll.**, are currently the following: work based on a **contract of mandate, contract of association, trade permit-based employment and membership in cooperatives.** When the issuance of most types of long-term visas was stopped, there were also cases of obtaining a legal residence and circumventing the Employment Act based on the study visa. In the examined sample there was one respondent with this visa type.

The interviews have shown that the **agencies and firms** obviously **prefer to employ foreigners with business visa/residence or persons with permanent residence.** Persons with permanent residence do not need any work permit to perform work (during the crisis most authorities have limited their issuance and renewal). Regarding the persons with business visa/residence, their advantage lies in the fact that no permits have to be arranged for them, they do not have to be registered and the firm is not obliged to make any payments to the state for them. Neither the firm nor the agency bears in fact any responsibility for them and when there is a lack of work they represent no obligation for them.

Persons with business visa/residence working for example in a factory are at risk of being **accused of the performance of illegal work. In some cases extradition is possible due to the failure to fulfill the purpose.** Currently, agencies and firms **accept a foreigner for work often on the condition that they will have an business visa/residence,** however. “It is easier for me when the people have business visa, I don’t have to take care of much. They pay their social security and health insurance themselves, taxes, too. This will actually begin now this year, I will fill in their tax returns, as well,” stated an owner of a Vietnamese agency operating in the CR with a valid permit of the Ministry of Labour and Social Affairs in an interview.

Subconclusions and recommendations

The lacking awareness of the Vietnamese workers and their lacking knowledge of procedures linked to the renewal of residence and the resulting necessity to solve everything through an intermediary generates their further debt. The respondents have unanimously talked about the fact that they do not want to stay here illegally and wait for the situation on the labour market to improve so that they can pay back the debt in Vietnam. In this respect, **a free assistance including interpreting or simplification of the system of the change of the purpose and residence renewals would possibly help.**

If the situation when firms and agencies routinely “employ” foreigners with business visa/residence does not improve shortly (with the firms lacking obvious motivation to change), it would be appropriate to **centre the prevention and provision of consultations on persons at risk of exploitation and human trafficking as well as foreigners who “run their business” in the CR.**

ASPECTS UNDER PRIVATE LAW OF THE ISSUE OF EMPLOYING FOREIGNERS

Recommendations

Concentrate on systematic and targeted language **training of migrant employees** and do away with language barriers, especially when dealing with government institutions by means of securing translators at certain hours for dealings with public institutions.

Raise awareness of foreigners of their rights and obligations – organising activating courses in labour law in mother tongue of foreign employees.

Ensure access to legal consultations.

Monitor access of migrant employees to courts.

Secure lawyers who would represent these employees in industrial disputes so that the rights guaranteed by the Czech legal system are complied with.

De lege ferenda draft amendment to the Labour Code to **enable the employers to borrow employees on their own without intermediaries**, and to contribute to a greater transparency of the labour market.

De lege ferenda draft amendment to the Act No. 549/1991, Coll., namely **exemption of the foreigner from court charges in industrial disputes**.

De lege ferenda draft to implement a binding legal assumption which would define **conditions according to which a work contract would be automatically established if these conditions were met**.

CONCLUSION

The chief aim of this report was to complement and specify some information obtained by La Strada CR during the project called *Vietnamese Workers in Czech Factories* in 2008. The research was based and drew on this project and developed basic information included in the project report.

Based on semi-structured interviews with Vietnamese labour migrants as well as other relevant persons, the current situation surrounding the key moments of the whole process of labour export from Vietnam to the CR was described. Special attention was given above all to the hypotheses concerning the labour recruitment and export from Vietnam, the role of the Czech Embassy in the labour migration from Vietnam to the CR, the interconnection of agencies in the country of origin and the target country (Vietnam and the CR), the strategy to find work and maintain the legal residence status in the CR and labour conditions, the role of job agencies and exploitation mechanisms of the Vietnamese during the crisis.

The reasons for migrating to the CR and the labour and living conditions of the Vietnamese workers have principally not differed substantially compared to the situation in 2008. However, it is alarming that at the time of the decrease in the output of the Czech economy and dismissals of agency employees many of them got into the situation in which they have no means and depend on the charity of their fellow Vietnamese. These people have usually not paid their debt in Vietnam back. After they have solved the legality of their residence (mostly a change of the purpose to business), they wait for the situation on the labour market to improve. They make their living and pay very high fees to intermediaries seeing to residence matters by means of further loans or their family who have to send them money from Vietnam. This way they may spend several months “providing for their papers” (e.g. pay dozens of thousands for residence renewal, taxes, social security and health insurance). Some of them work only for food and accommodation or they lose shelter and literally end up in the streets.

Intransparent labour export in Vietnam has to a great extent contributed to this situation in which agencies and intermediaries take advantage of the lacking awareness mainly of people coming from poorer rural areas. They lure them to work abroad with unreal promises. Many have set off on their way to work in the CR even at the time when there was already an evident lack of jobs for foreigners. In order to obtain a loan to finance intermediary fees, they have a lien imposed on their real estate and the estate of their family.

The importance of remittances sent to Vietnam by workers abroad can be significant both for the state and the families. The Vietnamese government is aware of this fact; therefore, since the early 1980s it has been implementing a policy of labour export as one of the adequate and effective instruments of reducing unemployment and raising living standards of its inhabitants. For this reason, some relevant legislation and regulations have already taken effect in Vietnam.

The conditions of labour recruitment and export are regulated by the Vietnamese government, however, the situation is not wholly under control of the state and the implementation of some regulations is obviously insufficient. Also, some international studies point out to this fact. On the other hand, the agencies comply with some regulations which are convenient for them – for instance, they collect a deposit from their clients which is due only when they remain in the same job for three years (or if they do not return to Vietnam during these three years). However, neither the Vietnamese state nor the agency can guarantee the workers that their work or residence permit will be renewed because the Czech legislation is defined differently. The only effect of these deposits is consequently the fact that the initial debt and the loan with its interest in Vietnam grow by several hundred to several thousand dollars and the migrants get under increasing pressure.

However, the situation is not much better on the Czech side, either, regarding the fact that the Czech Embassy is responsible for intransparent procedures of visa issuance and that this cheap labour is employed by firms operating on the Czech territory. In the past the Czech Republic officially declared its interest in the influx of the labour from Vietnam. At the same time, however, the Czech government has obviously not defined the conditions so that the process of labour migration of Vietnamese can run smoothly and safely. These shortcomings became evident already during the first step of recruitment when those potentially interested in a journey to the CR are not provided with essential information even by the Czech side. The Czech side, however, should have interest in the smooth acclimatisation of the newcomers to the conditions on the Czech labour market, to the Czech legal setting and culture. Also in this case prevention would be rewarding – instead of costly ex-post solutions. The dependency of the Vietnamese labour migrants on the intermediary networks securing them everything from the visa service, accommodation through to work will probably have its negative effects, as well. However, at the time of great boom of agency business these measures were obviously not perceived of as substantial by those accountable.

The agencies and intermediaries on the territory of the Czech Republic have recently lost a share of their income from workers because there is a little less work and consequently fewer opportunities to get an “agency commission”, as well. Some of them have started earning in new ways, which can be even more difficult to check and detect compared to employing Vietnamese under unfavourable wage conditions or failing to pay the statutory components of the wages. New forms of circumventing the Labour Code have emerged – intermediating short-term jobs for high fees, failing to pay for work to persons with business visa/residence and providing visa services for prices amounting to a several months’ pay.

If this situation is not solved conceptionally in a short time, the social situation of a significant part of the Vietnamese labour migrants may deteriorate more. The effective solution does not lie in non-issuance of visa, tightening check-ups of individual foreigners and their extradition. These restrictions are too costly and can never be efficient because as we have seen the mediatory system will always find some other alternatives how to secure its profit. As a consequence, mainly migrants, whose situation alone is very difficult, always suffer from the repressive approach.

Among others we recommend, therefore, that the system of employing foreigners be simplified and social services be modified appropriately. These measures should be implemented by means of a close cooperation of governmental as well as non-governmental organisations in the Czech Republic and Vietnam. In doing this, emphasis should be put on human and human rights aspects and support of the migrants.

In this respect the Socialist Republic of Vietnam and the Czech Republic could use the experience with the system of Philippine Overseas Employment Administration (POEA)⁴⁹ established in Philippines in 1982. Besides monitoring recruitment campaigns for work abroad it also defines minimum labour standards, it determines the intermediary fee charged by legal registered agencies (totalling the maximum of one monthly pay)⁵⁰, it promotes the awareness of those interested in work abroad, it secures workers legal assistance in the target countries, etc. Also some international specialised studies describe the genesis, the functioning and the benefits of this system (for instance the study Migration Policy Institute from 2004)⁵¹ including recommendations for other countries to use the Philippine experience when exporting their labour.

49...<http://www.poea.gov.ph/>

50...O’Neil, Kevin. Labor Export as Government Policy: *The Case of the Philippines*. Migration Policy Institute, [cit. 20. 1. 2010], p. 2. Access from: <http://www.migrationinformation.org/feature/display.cfm?ID=191>

51...O’Neil, Kevin. Labor Export as Government Policy: *The Case of the Philippines*. Migration Policy Institute, [cit. 20. 1. 2010]. Access from: <http://www.migrationinformation.org/feature/display.cfm?ID=191>

In this research La Strada CR links the issue of human trafficking and exploitation to the information obtained in the field of Vietnamese migration, realising that discrimination, isolation and the lacking awareness of Vietnamese workers, which was already pointed out in the previous research studies, can in the long term represent significant risk factors with respect to human trafficking and exploitation. Some recommendations and conclusions apply in our view to labour migrants of any nationality and can be therefore generalised.

These outputs should serve as one of the instruments to improve the provision of social services not only to Vietnamese migrants who are at risk of labour exploitation and human trafficking. At the same time, some parts of the text also concentrate on the prevention of these phenomena in the Vietnamese labour migration and agency employment of foreigners in general.

USED SOURCES:

České firmy shánějí do továren lidi z Vietnamu, prostředníci chtějí za víza od ambasády úplatky [online]. Cvs-praha.cz. [cit. 10. 1. 2010]. Přístup z: <http://www.cvs-praha.cz/napsali.php?rok=2008&clanek=77>.

Dobrovolné návraty a zajištění bezpečnostní situace ČR – prezentace MV.ppt. Praha: MV ČR, [cit. 21. 12. 2009]. Přístup z: <http://www.mvcr.cz/clanek/dobrovolne-navraty-a-zajisteni-bezpecnostni-situace-cr.aspx>.

Guide to Ethic and Human Rights in Counter Trafficking. United Nations Inter-Agency Project On Human Trafficking. Bangkok, 2008. [cit. 8. 1. 2010]. Přístup z: http://www.no-trafficking.org/reach_micro/uniap_ethics_guidelines.pdf

Migrace. Praha: OAMP MV ČR, [cit. 15. 12. 2009]. Přístup z: <http://www.mvcr.cz/clanek/migrace-novy-clanek-890951.aspx?q=Y2hudW09NQ%3D%3D>.

Náklady na pracovní sílu ve Vietnamu rostou i v době krize [online]. BusinessInfo.cz. [cit. 8. 1. 2010]. Přístup z: <http://www.businessinfo.cz/cz/clanek/vietnam/vietnam-pracovni-sila-naklady/1000667/54756/>.

Nguyen, Dan Anh. Labour Migration from Viet Nam: Issues of Policy and practice. ILO, [cit. 12. 1. 2010]. Přístup z: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_099172.pdf

Nguyen, Minh Thao. Migration, remittances, and economic development: Case of Vietnam. Vietnam: CIEM, [cit. 14. 1. 2010]. Přístup z: <http://www.trf.or.th/TRFGallery/Upload/Gallery/Documents/Files/1000000027.pdf>.

O'Neil, Kevin. *Labor Export as Government Policy: The Case of the Philippines*. Migration Policy Institute, [cit. 20. 1. 2010]. Přístup z: <http://www.migrationinformation.org/feature/display.cfm?ID=191>

O nesnadném osudu řady Vietnamců u nás [online]. Borntoanthropology.blog.cz. [cit. 9. 1. 2010]. Přístup z: <http://borntoanthropology.blog.cz/0904/o-nesnadnem-osudu-rady-vietnamcu-u-nas>.

Petr, M. *Agentury krachují, není koho zaměstnat* [online]. KarieraWeb.cz. [cit. 11. 12. 2009]. Přístup z: http://kariera.ihned.cz/1-10052830-34727030-q00000_detail-b7.

Philippine Overseas Employment Administration (POEA). Přístup z: <http://www.poea.gov.ph/>

Stanovisko OBP MV ČR k otázce výkladu ustanovení § 232a zákona c. 140/1961 Sb., Trestního zákona (dále jen TZ). Praha: OBP MV ČR, [cit. 11. 12. 2009]. Přístup z: http://web.mvcr.cz/archiv2008/rs_atlantic/data/files/stan-232a-tz.pdf.

Statistika zaměstnávání cizinců. Praha: MPSV ČR, [cit. 19. 12. 2009]. Přístup z: http://portal.mpsv.cz/sz/stat/zam_ciz_stat_prisl.

Tisková zpráva: Postoj MPSV k zaměstnávání cizinců. Praha: MPSV ČR, [cit. 20. 12. 2009]. Přístup z: http://www.mpsv.cz/files/clanky/7854/tz_131109a.pdf.

Vidlák, M. *Cizince jsme nezvali, mohli zůstat doma.* Praha: Lidové noviny, 31. srpna 2009.

Vietnam [online]. HumanTrafficking.org. [cit. 9. 1. 2010]. Přístup z: <http://www.humantrafficking.org/countries/vietnam>.

Výroční zpráva 2008. Praha: BIS ČR, [cit. 12. 12. 2009]. Přístup z: <http://www.bis.cz/n/2009-08-31-vyrocní-zprava-2008.html>.

Vývoj počtu cizinců evidovaných ÚP. Praha: ČSÚ, [cit. 13. 12. 2009]. Přístup z: [http://www.czso.cz/csu/cizinci.nsf/t/8F005D7FB9/\\$File/c05r01.xls](http://www.czso.cz/csu/cizinci.nsf/t/8F005D7FB9/$File/c05r01.xls).

