

Strengthening Evidence-Based Management of Labour Migration in Armenia
«Հայաստանում աշխատանքային միգրացիայի գիտավերլուծական կառավարման հզորացում»

Policy Brief

Համառոտագիր



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Imperatives of regulating operations of intermediaries facilitating labour migration



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The Picture of Dorian Gray

The number of customers turning to the services of private employment agencies (PEA) in Armenia is increasing: every tenth employer is nowadays a customer of PEA. However, Armenian PEAs face serious challenges, which hinder development and effectiveness of these significant players in the labour market. PEAs are intermediaries between job-seekers and employers. As a rule, these are small and medium sized businesses, usually with no more than three staff members. As such, they tend to experience the same issues, as any other small or medium enterprise (SME) would, regardless of the type of business.

One of the major challenges is the deficient legal regulation of the activities of intermediaries in the employment sector. On one hand, their rights and interests are not properly protected: many customers tend to avoid carrying out their responsibilities by all means possible. On the other hand, the latter are not fully protected themselves which seriously agitates state agencies and trade unions. More critically, these issues undermine public trust towards PEAs. Meanwhile, job-seekers both in Armenia and abroad rely predominantly on personal social capital or a third person as an intermediary to find a job, which results in continuing vulnerability of their rights.

In 2001 the requirement for licensing of PEAs was removed. According to trade unions, this has resulted in deteriorating capacities of PEAs. State agencies and business representatives differ in their perspectives regarding a recent initiative: bringing back the issue of licensing on the policy agenda. Some argue that licensing will address the need for proper supervision over PEA activities. The counterargument is that it will push the intermediaries further into the shadow market.

Practically any enterprise can legally organize recruitment of Armenian labour force for foreign labour markets. It simply needs to add an adequate clause in its statute. For an intermediary to make such an activity profitable, it will suffice to simply ensure a flow of job-seekers to its office. This is not an issue today, since Armenians consider labour migration as a feasible alternative to local unemployment and underemployment. It might seem that the government should adopt a somewhat reserved attitude towards intermediaries. However, were the latter be able to comply with the minimal standards adopted for adequate services, they could play an invaluable role in decreasing the unemployment level in the country, and alleviating numerous challenges a job-seeker faces today when they involve in labour migration.

Licensing

Provision of legal warrants to protect the rights and interests of labour migrants should be the cornerstone of any initiative aimed at regulating labour migration. Thus, there is a need for defining minimal standards and regulations in order to organize labour migration. Such practice should be able to provide the necessary balance between protection of the interests of PEAs, and the rights of job-seekers and employees. Several instruments have been identified in the international practice, including licensing, certification, accreditation and audit. In case of licensing, regulation of labour migration should directly reflect the underlying principles of licensing as defined by the RA Law on Licensing. For instance, according to Article 4, such a principle is “protection of the rights and lawful interests of individuals; protection of public morality and health, ensuring the defence and security of the state”.

Indeed, licensing may be necessary though not sufficient for successfully defending against any violation of rights and negligence of interests of citizens. It is perhaps the most well-known and reliable instrument used globally towards that goal. For instance, recruitment intermediary is



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considered a business liable to licensing in a number of countries, including France, Russia and the Philippines.

The goal of such regulation is establishing civil relations and ensuring reliable warrants for proper operations of respective businesses. Licensing is an instrument which helps to identify organizations that do not comply with minimal standards in organizing labour migration. Licensees will be obliged to demonstrate sufficient capacity to take responsibility for their actions, and to respond to challenges and risks having emerged in the result of their operations. Meanwhile, it is worth mentioning that in terms of effective management it makes more sense to avoid expending the range of business types that require a license, specifically when it comes to complex licensing procedures.



Regulation frameworks

Except the issue of protecting the interests and rights of RA citizens, free movement of human resources is pregnant with other risks as well, including illegal migration and trafficking. Therefore, it is more appropriate to license not the overall operation of recruitment agencies, but only a specific service: recruitment of labour force for foreign markets.

Another important feature of labour migration is the fact that protection of the rights of labour migrants is generally provided by a labour destination country, which emphasizes the need to expand the range of warrants provided in Armenia.

Using such a regulation mechanism will increase the level of trust towards PEAs, as licensing will become in a way a dividing line between economic entities trusted by the state, and capable of providing adequate services of employment in foreign labour markets in compliance with the quality standards defined by the state, and others.

Meanwhile, it is necessary to prevent a potential conflict of interests between the public and private sectors, while selecting an eligible state agency to be responsible for the regulation process, because the regulation mechanism will actually influence businesses operating in a free market. Another significant point to take into account is the fact that in Armenia recruitment services are provided not only by private businesses, but also by a public entity – “State Employment Service” agency. Any regulation mechanism should exclude a possible conflict of interests and corruption risks, which may evolve in in case licensing is enacted. Taking into account the fact that labour migration issues fall directly under the mandates of both the Ministry of Labour and Social Affairs, and State Migration Service of the Ministry of Territorial Administration, there is a the need to avoid a potential conflict of interests between the public and private sectors which may arise while attempting to regulate and supervise the operations of recruitment agencies. It is crucial to communicate this risk, as well as recommendations for solutions to the mentioned agencies and to engage them in a dialogue.

This paper is elaborated based on the opinions passed by the participants of the round table “The State monitoring system toward the activities of Intermediary organizations, the principles of concluding interstate agreements on labor exchange and the list of countries with the highest interest for the RA”, which took place on December 7, 2012. The roundtable was attended by independent analysts, government officials, and representatives of the international organizations.

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