



The European Union’s “Support to Migration Policy Development and Relevant Capacity Building in Armenia” Programme

Եվրամիության «Աջակցություն Հայաստանում միգրացիոն քաղաքականության և համապատասխան կարողությունների հզորացմանը» ծրագիր

Policy Brief Համառոտագիր



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International Center for Human Development
Մարդկային զարգացման միջազգային կենտրոն



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ՀՀ տարածքային կառավարման նախարարության միգրացիոն գործակալություն

The Bill on Regulation of Labor Migration in Essence

State Regulation of Labor Migration: To Be or Not To Be?



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Relevant state agencies and migration experts answer this question without any hesitation: yes. Taking into account both the internal social realities and tendencies, as well as external, i.e. international developments of the employment market, and the requirements of various conventions to which Armenia has joined (International Labor Organization, Convention No. 97; European Social Charter of the Council of Europe) this sphere should be regulated by the state.

Thus, there is a unanimous agreement in principle regarding the issue. However, the key issue is the following: how to regulate the sphere? What pool of tools should be used?

The cornerstone of regulation of labor migration

The milestone of the bill on regulation of labor migration drafted by the Migration Agency of the RA Ministry of Territorial Administration (MA MTA) is providing real guarantees for protecting rights and interests of labor migrants.

The special feature of labor migration is the fact that the regulation of the issue is sometimes transferred to the framework of responsibilities of the country providing employment, which results in increasing the necessity of initiating preventive measures in the country exporting labor force. Therefore, it is necessary to

- considerably restrict the freedom of organizations which cheat and leave RA citizens without money and legal support in foreign countries;
- regulate relations between mediators, labor migrants, foreign employers and state agencies;
- assign the mediator the responsibility of ensuring guarantees by developing a system of contractual relations within the framework of regulation activities.

The goal: protection of rights and interests

Finding a job in foreign countries entails a range of risks. In order to prevent instances of defective service provision and deception it is suggested to use the following pool of tools:

- licensing;
- contractual regulation of relations:
 - contract of preferences signed between the labor migrant and the mediator;
 - job contract signed between the labor migrant and the foreign employer;
 - contract signed between the mediator and foreign employer.
- awareness campaign and consulting provided by the relevant institution;
- prohibition of advertisement of unlicensed companies organizing labor migration in mess media.

A step back from liberalism?

Introduction of licensing is perhaps the only concept which may meet serious resistance. Opponents believe that it will take the country a step back from liberalization of the economy and economic relations. Given the Armenian reality, there is a serious concern that this tool will spur a number of negative phenomena, specifically corruption, boosting of shadow activities in the field and rise of service prices. The risk of corruption has always existed in a

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citizen-state official interaction. However, were this a key factor in decision making, there should not have been any kind of licensing practice in Armenia.

Still, the international practice shows that licensing is the most frequently used and effective mechanism among all the other tools mentioned above, which allows preventing violation of citizens' rights and interests.

He that fears every bush must never go a-birding

What can be done? It seems that in the given situation the best option is to accept the concept of licensing and in parallel seek for solutions which will minimize possible negative consequences of introducing this practice. Certainly in terms of liberalization of the economy one can agree with the argument that the more spheres are freed from the 'claws' of licensing, the better economic results will be achieved. However, the shift of human resources should not be compared with gaining profits from the export of shoes. While making a decision one should weigh the risks of introducing licensing on one hand and the rights and interests of the citizens on the other. Such a comparison will show that the scale with the protection of citizens' rights and interests weighs significantly heavier, since cases of largescale violation of these rights are numerous.

Adversaries to the concept of licensing claim that licensing is a tool for state officials to unilaterally pursue their own interests. Without focusing on any counterarguments, it should be noted that licensing can also provide advantageous conditions for entrepreneurs: with the support of the state institutions the relevant agency will provide information regarding job vacancies in foreign countries, as well as data on migration to the mediatory organizations, thus establishing an effective ground for the organization of employment. The Russian proverb says, "The devil (i.e. licensing) is not so black as he is painted".

While discussing the rise in prices, let's ask one question: "What would you prefer: to pay more and use a high quality service with guarantees, or pay comparatively less and get no service at all?" Even if licensing results in emergence of shadow practices, those still using these 'available' services should be aware that they carry the sole responsibility for protection of their rights.

Licensing will not only hold private organizations accountable, but will also commit them to certain financial responsibilities. Of course, the current practice of providing statistical data can also be considered a mode of accountability; however, in this case the state does not possess any direct leverage to hold accountable those organizations which do not meet the demands for protection of citizens' rights and interests.

Indeed, there is a need to answer another question: what additional skills and capacities should mediatory organizations possess? It is assumed that new issues will emerge if these organizations offer employment opportunities abroad to citizens of their own country, which will be defined by factors, such as immigration laws of the given foreign country, professional exams, travel, lodging, acquiring employment permit, organization of the return and number of other essential factors.

Eventually, one needs to accept that licensing is one of the tools used to regulate relations in the sphere of migration; however, one should also remember that it is not the final goal of adopting the bill.

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