



SDRUŽENÍ ASSOCIATION
PRO INTEGRACI FOR INTEGRATION
A MIGRACI AND MIGRATION



NADACE
OPEN SOCIETY FUND
PRAHA



United Nations High Commissioner for Human Rights

United Nations Office at Geneva

CH 1211 Geneva 10

registry@ohchr.org

In Prague on 15.5.2015

Re: Submission of the Association for Integration and Migration on challenges and best practices in promoting and protecting the human rights of migrant domestic workers, regardless of their migration status

Introduction

Association for Integration and Migration (SIMI) is a human rights based NGO providing legal, social and psychological free of charge assistance to migrants irrespective of their legal status in the Czech Republic. Through our advocacy, educational, and research activities we strive to promote protection of fundamental and social rights of migrants including migrant domestic workers in the Czech Republic. Since its establishment in 1992 SIMI has provided its services to over 40 000 migrants.

Migrant domestic workers in the Czech Republic

SIMI has been providing legal and social counselling and support to migrants domestic workers since its existence. In the last 4 years special projects, attention and resources were provided to focus on the situation of domestic workers due to the increase of demand for their work at the predominantly irregular and undeclared labor market that was identified through the SIMI counselling. The situation of domestic workers has been completely overlooked by the policies and actions of the Czech Republic claiming of non-existence of this labour segment in the Czech Republic. In 2013 the ratification of the ILO Convention 189 on Decent work for domestic workers was declined due to the very small numbers of workers active in this segment of labour market and non-compliance of the Convention with the Constitution of the Czech Republic.¹ From the experience of SIMI it was clear that relevant data and research is missing to provide evidence and information about the situation of migrant domestic workers in the Czech Republic, challenges, social realities, and abuses of their rights, which were SIMI dealing with through counselling to migrants.

¹ For more information please see the open letter to Senate of the Czech Republic by SIMI

http://www.migrace.com/docs/120807_simi-stanovisko-umluva-o-pracovnicich-v-cizi-domacnosti.pdf

Projekt „Ženy na vedlejší koleji (?)“ podpořila Nadace Open Society Fund Praha z programu Dejme (že)nám šanci, který je financován z Norských fondů. Prostřednictvím Norských fondů přispívá Norsko ke snižování sociálních a ekonomických rozdílů a posílení vzájemné spolupráce v Evropě. Podporuje především ochranu životního prostředí, výzkum a stipendia, rozvoj občanské společnosti, péči o zdraví, děti, rovnost žen a mužů či zkvalitnění justice. Program Dejme (že)nám šanci podporuje rovné příležitosti žen a mužů v pracovním i osobním životě a prevenci a pomoc obětem domácího násilí v České republice. Spravuje ho Nadace Open Society Fund Praha, která od roku 1992 rozvíjí hodnoty otevřené společnosti a demokracie v České republice. Projekt realizuje Sdružení pro integraci a migraci (SIMI) ve spolupráci s FHS UK a Universitou Bergen.



Between 2012 – 2014 SIMI realized with support of partners a project: Equal opportunities on the threshold of Czech homes.² The project included the following activities:

- 1) Legal and social counselling for foreign national women and their employers, for everyone concerned by domestic work.
- 2) Subject website concentrating all relevant information on the topic including practical advice and useful contacts intended for domestic workers, their employers, and general public. www.pracovnicevdomacnosti.cz
- 3) Specialist research to cover this area little explored in the Czech Republic and to provide necessary data. We aim at obtaining necessary data as a basis for a discussion about further development and necessary legislative measures by means of questionnaires, outreach research and research into economic impacts of the issue.
- 4) Conference with a public presentation of project results
- 5) Media and communication campaign to bring information to all stakeholders among specialists as well as the public and to draw the much deserved attention of public to the issue of domestic workers.

Within the project the first ground breaking research³ on the situation of migrant domestic workers in the Czech Republic was conducted. The research was realized in the participatory method, over 254 migrants were contacted from which 120 were willing to participate at the research and 105 filled questionnaires were used. There were 6 areas of interested being research: It consisted of 7 sections (see Annex) covering the following:

- i) Basic information about respondents;
- ii) Motivation and decision-making process regarding their stay in the Czech Republic;
- iii) Position and mobility on labour market;
- iv) Working conditions;
- v) Family and life in the Czech Republic;
- vi) Experience with (non-governmental) organisations.

This research study was the first attempt to empirically map the activities of foreign home care female workers in Czech homes. One of the contribution of the study is therefore also methodological – we have identified and tested the ways to approach the communities and that can easily be used in possible future studies or information campaigns. The study also offered a basic classification of migrants and stated the level of their vulnerability towards the risks coming from working in unofficial home care labour market.

An important finding of the study is the fact that the migrants coming to the Czech Republic are usually at least formally qualified for their jobs, something that is not typical for the rest of

² For more information see the website of the project <http://www.pracovnicevdomacnosti.cz/en>

³ The full research report is the amendment no. 1 of this Submission, draft translation of the research report into English is the amendment no. 2 of this Submission.



the workers in the field. It was positive that among this study's respondents there were no cases of extreme behaviour from employers that are known from other countries.

The main factor determining migrant's choice to come to the Czech Republic was then better wages but also presence of friends or relatives. These networks of migrants work also as information sources and partly also as substitutes for institutions helping the migrants with necessary formalities.

Migrants employed in Czech families do not constitute a burden to Czech economy, contrarily, they help to lessen its problems: population ageing, growing expenses on healthcare and social services, danger of lack of medical staff, insufficient nursery capacities and (women) employment. If the Czech Republic wishes to explore these advantages, it should nevertheless prepare itself more and make use of and rightly assess the qualification of the migrants.

This study has shown that working and living conditions for migrants could be improved by stable residence status, formalization of working conditions and restrictions (simplification of procedures), possibility to enter public healthcare sector and simplification of migration for family members. These improved conditions would then attract more migration of the type that is beneficial to the Czech Republic.

Based on the conducted research and experience of SIMI from legal and social assistance and legal analyses⁴ of the situation of domestic workers following recommendations to improve the situation of migrant domestic workers in the Czech Republic were defined. The legal framework of employment of migrant domestic workers does not provide protection of the rights of migrants.

1. The employment card (permission to stay and permission to work) shall not be linked to the specific employer and therefore allow mobility at the labor market. The fact that employment card is linked to the specific employer creates full dependence of domestic worker on her/his employer, therefore allowing abuse of their employment and other rights.
2. The fact that majority of third country nationals (TCN without permanent residency) cannot be employed through the labour agency means less protection and less legal employment in the segment of domestic workers. The high administrative burden of employment of TCNs means that families tend to employ domestic workers through undeclared means of work, thus providing domestic workers much lower employment standard and higher possibility of violation of their rights without their possibility to seek remedy.
3. The key change is needed in the access of domestic workers to the protection of labour inspection. Domestic workers in irregular situation (either undocumented or documented but illegally working) will be subjected to fine and expulsion for up to 5 years if they contact Labor inspection. Labor inspection has a duty to inform immigration authorities in case of finding violation of immigration laws. Furthermore, Labor inspection cannot conduct controls in the private households, claiming it would be violation of the right of privacy guaranteed by the Constitution.

⁴ The legal analysis is the part of the publication <http://www.pracovnicevdomacnosti.cz/stahnout-soubor?id=213>. Available only in Czech language.



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4. The Czech Republic shall ratify ILO Convention 189 on the Decent work for domestic workers, thus changing its legislation concerning the access of labor inspection to the place of employment of domestic workers.

Good practice – campaign for employers

In 2013 and 2014 SIMI realized a campaign focused on general public – employers to inform them about the employment rights of domestic workers. Viral campaign, leaflets and social spot were released and disseminated.⁵ The campaign was supported by the robust sections on the web site dedicated to employers and domestic workers informing about their rights and duties and providing detailed information, how to legally employ domestic workers. Free of charge advice was provided not only to migrant domestic workers but as well to employers interested in fair and legal employment.

⁵ Information about the viral campaign are available here file:///C:/Users/Magda/Dropbox/lobbying/OCHCR%20-%20domestic%20workers%20PICUM/Do_you_know_who_cleans_your_place_press_kit_ENG.pdf

Leaflets> Ten commandments for fair employers <http://www.pracovnicevdomacnosti.cz/en/for-public/for-employers.html>

Short video: Respect the rights of domestic workers <http://www.pracovnicevdomacnosti.cz/en>

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