

# Employment of Ukrainian Workers with Polish Visas in the Czech Republic: From the Main Patterns of Labour Exploitation towards Points of Intervention

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With financial support from the European Union



Government of the Netherlands

This publication has been produced as part of the “Towards Stronger Transnational Labour Enforcement Cooperation on Labour Migration” (STRONGLAB) project, financed by the International Visegrad Fund and the Ministry of Foreign Affairs of the Kingdom of the Netherlands. This publication has also received financial support from the European Union Programme for Employment and Social Innovation ‘EaSI’ (2014-2020). For further information please consult:<http://ec.europa.eu/social/easi>.

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## About project

“Towards stronger transnational labour enforcement cooperation on labour migration” (STRONGLAB) project is funded by the International Visegrad Fund and the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

STRONGLAB’s activities analyse patterns of labour migration and rights violations of migrant workers in the V4 countries with a focus on Ukraine as a sending country. We aim to provide up-to-date information on labour rights violations and intermediary practices and suggest possible remedies. Furthermore, the project aims to strengthen cooperation and experience sharing among labour inspections, NGOs and other actors providing assistance to migrant workers to strengthen protection and enforcement of labour rights.

The project consortium includes Multicultural Center Prague (Czech Republic), Fundacja “Nasz Wybór” (Poland), Centrum pre výskum etnicity a kultúry (Slovakia), Anblokk Kultúra- és Társadalomtudományi Egyesület (Hungary) and Charitable Foundation “Zaporuka” (Ukraine).

# Obsah

<u>EXECUTIVE SUMMARY</u>	3
<u>INTRODUCTION</u>	4
<u>POSTING OF UKRAINIAN WORKERS VIA A ‘POLISH VISA’</u>	7
<u>Polish visas as a labour-law category</u>	7
<u>Intermediation of a Polish visa</u>	10
<u>The Polish visa as a socio-political state</u>	13
<u>EMPLOYMENT OF MIGRANT WORKERS IN THE CONSTRUCTION SECTOR</u>	17
<u>General developments</u>	17
<u>Working conditions and personal experiences of migrant workers</u>	20
<u>Living and social conditions</u>	23
<u>EMPLOYMENT OF MIGRANT WORKERS IN THE HOTEL INDUSTRY</u>	26
<u>General developments</u>	26
<u>Working conditions and personal experiences of migrant workers</u>	28
<u>Living and social conditions</u>	31
<u>Worker’s perceptions of justice at work and mechanisms of demanding it</u>	34
<u>THE ROLE OF OTHER SELECTED ACTORS</u>	40
<u>Intermediaries</u>	41
<u>Labour inspection</u>	42
<u>Trade unions</u>	44
<u>NGOs and the informal solidarity network SOL!S</u>	45
<u>MAIN FINDINGS</u>	47
<u>RECOMMENDATIONS</u>	50
<u>REFERENCES</u>	52

## Executive Summary

Despite the current favourable economic development in the Czech Republic and the demand for low-skilled Ukrainian workers, the opportunities to enter the Czech labour market are very limited. One of the options is the use of so-called Polish visas, which, however, has many problematic aspects. Their use can be perceived both as a strategy for companies and intermediaries to ensure a sufficient number of employees or as an individual entry/residence strategy of the workers themselves. The use of so-called Polish visas can also lead to the formation of a specific category of «Polish visa worker» as a socio-political state characterised by the semi-legality of residence.

According to state authorities, the so-called Polish visas workers are dominantly perceived as illegal workers (e.g. as hidden employment, it can be perceived as a form of false posting). The labelling of illegal workers however does not solve the situation as they are still needed on the Czech market, and thus are not suffering a lack of job offers by having Polish visas. Furthermore, in the case of their deportation, they can easily be replaced by other Ukrainian workers within a week. In our opinion, it is more appropriate to speak of semi-legality, of which a number of workers are aware as they adhere to certain rules - for example, they return home after the expiration of their visa.

Our research, among other things, shows that the impact on labour rights, in connection with the use of the Polish visa and its semi-legal status, may be quite crucial. We observed a decrease in the labour rights standards defined in the Czech Republic, and the creation of unofficial, unregulated ones, only «executed» on a personal level via job intermediaries. The main expression of injustice at work is the issue of unpaid wages and underpayment. Other violations include a lack of security instructions and training at the workplace, a lack of protective equipment

and long shifts (e.g. 11-13 hours, 6 days a week).

For workers, the semi-legal status of a «Polish visa worker's category» has been internalised, conceivably creating differences in salary (pay gap) and types of work, feelings of exclusion, fears of being revealed and official institutions or non-governmental organisations being notified, and sometimes even changing behaviour or dress (trying to «look like Czechs»). Some Czech employers or intermediaries can, moreover, easily exploit the precarious position of Ukrainian workers.

Personal and social networks are of great importance when sharing information. Most workers had no knowledge that they could contact available NGOs for help or counselling. There was also a generally observable absence of familiarity with trade union activities. In this context, it is also worth mentioning that these actors themselves are, to some extent, against foreigners, which was expressed in the «End of Cheap Work» campaign. Institutions such as labour inspectorates, individual ministries or the Foreign Police are perceived as abstract bodies that cannot be contacted in the case of semi-legal work.

## Introduction

Current favourable economic development, low unemployment and a positive forecast in macroeconomic indicators for 2017 and 2018 affected the demand for labour migration in the Czech Republic. Employers in this situation are looking for ways to allow foreign workers' access to the Czech labour market.

Foreigners from third countries, as opposed to EU citizens, usually stay in the Czech Republic for longer periods; however, to access the Czech labour market, strategies of posting workers are often used. The European Union, Directive 96/71 / EC of 16 December 1996, concerning the

posting of workers in the scope of the provision of services, provides a specific framework for wages and working conditions to be made available to workers posted by an employer in another Member State. In this respect, the Czech Republic is no longer only an exporter of work but has also become an importer (Chmelar et al., 2016).

However, controlling cases of Ukrainian workers<sup>1</sup> posted mainly from Poland to the Czech Republic shows that this type of posting can often be characterised as a so-called «false» posting (Cremers 2011: 41). In posting Ukrainian workers through «Polish visas» (Schengen or national types of visas issued in Poland) certain posting conditions are not met, such as duration of stay (i.e. 90 days of work) or providing services that have no non-dependent features. In this case, the posting mechanism is used as a semi-legal strategy, which can be manipulated to circumvent restrictions on the labour migration of non-EU workers, allowing savings in social security and other payments (Čaněk 2017).

Labour inspectors estimate that illegal work (irregular or semi-legal) will play an important role in the recently introduced visa-free regime for Ukrainian citizens, which removes the visa requirement for biometric passport holders entering for short-term non-profit purposes, making it easier to travel to the Czech Republic (SLIO 2017). In this respect, another significant change in migration policy is the termination of the Visapoint system (criticised by employers and applicants alike for its failure to work, registration of a limited number of applications or the sale of vacancies for a fee) used by the state to regulate the number of visa applications. Other changes that will affect the form of labour migration

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<sup>1</sup> Ukrainians are the largest group of migrant workers in the Czech Republic. According to official statistics, 109 850 Ukrainian citizens were registered in the Czech Republic at the end of 2016 (CZSO 2017a). The vast majority (98%) had lived in the country for over a year, and three quarters (72%) had a permanent residence permit. There are no recent estimates regarding the number of migrants with irregular or semi-legal status living in the country. Nevertheless, earlier studies suggest that numbers may be as high as official statistics (Drbohlav 2009, Nekorjak 2007, Leontiyeva 2016).

are changes in the labour code. The latest amendment (effective July 22, 2017) in this area allows employment agencies to assign a migrant worker to the service user.

Responding to pressure from employers, the state has in the recent years begun to seek ways to accelerate entry to the Czech labour market for selected Ukrainian workers. In November 2015, a special programme for highly qualified workers from Ukraine began to operate. However, it targeted only workers in the manufacturing, construction and service industries. Currently there are two special programmes to attract highly qualified, or even partially qualified, Ukrainian workers to certain professions (ISCO 4-8)<sup>2</sup>. By the end of September 2017, these programmes attracted nearly 11,000 migrant workers. Both appear to be relatively successful (10 170 skilled workers and 680 highly qualified workers)<sup>3</sup>. The chances of obtaining Czech work visas for low-skilled jobs remain very limited (Staszkievicz, Trlifajová and Votavová 2012), despite of the fact that an analysis of available statistics shows that there is a high demand on the Czech labour market for unskilled foreign workers.

Previous surveys indicate that labour migration (visas, travel, accommodation, work) is often organised through official agencies as well as semi-legal and informal intermediaries (LABCIT 2016). The quasi-legal system of Ukrainian intermediaries (in the Czech context, often referred to as the «client system») is also associated in the literature with exploitative practices. This was particularly on the rise thanks to a large number of unsettled Ukrainian workers dependent upon an employer (or intermediary) for work and residence permits, employers who would often use this power over workers (Nekorjak 2006, Čermáková and Ne-

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<sup>2</sup> More information about the project: <https://www.komora.cz/obchod-a-sluzby/zamestnanci-ukrajina/zarazeni-do-rezimu-ukrajina/>

<sup>3</sup> The data comes via a presentation by experts from the Ministry of Labour and Social Affairs on the integration platform organised by the City of Prague: Boušková P., B. Maťová 2017. *Zahraníční zaměstnanost v číslech*. Praha, 14. 11. 2017.



korjak 2009, Leontiyeva and Nečasová 2009, Malynovská 2013). It seems that today, when almost 70% of the officially employed Ukrainians in the country have free access to the labour market (without a permit), the role of intermediaries has weakened. However, due to the nature of employment in some sectors (especially those with a high demand for unskilled labour, an intense workload and changing shifts, worker fluctuation, etc.), intermediaries retain their role, and one of their strategies for organising labour migration is the use of ‘Polish visas’.

## Posting of Ukrainian Workers via a ‘Polish Visa’

So-called Polish visas can be perceived both as a specific strategy companies and intermediaries employ (in addition to the use of European passports, e.g. from Romania or Bulgaria, family reunification, etc.) to get Ukrainian workers to the Czech market and as an individual entry/residency strategy of workers.

### Polish visa as a labour-law category

As a more frequent method of migration, the use of so-called posting has emerged in the Czech Republic in the last few years. In 2015, it was estimated that 500 Ukrainian workers were posted, whereas by the end of 2017 it had risen to about 7,000 (Čaněk et al., 2017). According to Directive 96/71/EC of 1996,<sup>4</sup> a ‘posted worker’ refers to a worker who, for a limited period of time, carries out work in the territory of a Member

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<sup>4</sup> DIRECTIVE 96/71/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 December 1996 concerning the posting of workers in the framework of the provision of service, access: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996L0071:en:HTML>

State other than where he is normally employed<sup>5</sup>. When comparing posting with regular labour migration, which is part of the free movement of workers (employees are subject to the legislation and social system of the country where they work, OSH, etc.), the posting of workers is based on the principle of freedom of movement of services. This means that employees are subject to the legislation of the Member State from which they are posted (sending country) but are entitled to a set of fundamental rights (minimum conditions).

In order for posting to comply with the definition laid down by the Directive, it is necessary: (a) to have a direct employment relationship in the country of posting; (b) the sending company should be the actual enterprise normally operating in the EU Member State of which the worker is employed; and (c) the posting is temporary, and the posted worker remains subordinate to the posting officer (Cremers 2017).

In line with these basic conditions, we can distinguish between the regular posting of specialised subcontractors providing temporary services in another EU Member State with qualified staff who belong to the core workforce of a posting enterprise. The posting of workers from third countries can usually and generally be seamless and unproblematic in the case of so-called long-term EU residents (Joklová, Ryšavá et al., 2009). On the other hand, a «false» postings feature false A1 forms, non-verifiable invoices for service provision, recruitment of posted workers already in the host country, etc. (Cremers 2011, 2017).

The specific phenomenon within posting is ‘Polish visas’ (Schengen or

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<sup>5</sup> The Directive was further updated in 2014 by Directive 2014/67/EU, which aims to improve the practical application of the rules; in October 2017 proposals for its revision were adopted. The purpose of this revision is to encourage companies to comply with the rules on posting and at the same time change certain conditions, e.g. posted workers are no longer entitled only to a minimum wage but to the same remuneration as other employees working in the same place and performing the same job; collective agreements will be implemented in all sectors of the economy; long-term posted workers (living abroad for more than two years) will be protected under the labour law of the host Member State.

national types of visas issued in Poland); typically, these are workers who work in low-qualified jobs for three-month periods. The liberalised labour migration policy in Poland, along with the limitations of labour migration in the receiving states, partly explains the important role played by companies based in Poland (Čaněk et al., 2017).

The method of posting via Polish visas has been relatively tolerated<sup>6</sup> in the Czech Republic or at least, from the point of view of the institutions, unclear. As part of labour inspection controls, however, the aforementioned false posting was often detected, mainly through Polish companies (SÚIP 2017). It was perceived as fake posting because, for instance, companies located in Poland were sending workers from Ukraine to work but not temporarily. Or it was not a service but a so-called intermediation of employment, meaning the posted worker performed for the Czech entrepreneur or firm dependent work normally done by the company's employees. There was also a breach of duty to inform the Office of the Czech Republic about the commencement and termination of the posting.<sup>7</sup> Other evidence of false posting includes the finding that workers often come directly from Ukraine to the Czech Republic, they are transferred from one firm to another, etc.

***“I have not yet seen Ukrainians who are employed - they always have a Umowa zlecenia (civil contract)<sup>8</sup>. This is not covered under the Labour Code, and therefore the Czech Labour Code does not apply to them. § 98***

<sup>6</sup> The common statement of state authorities concerning the issue of posting third-country nationals appeared on 22 November 2017: <http://kzps.cz/wp-content/uploads/2017/11/stanovisko.pdf>.

This document depicts the abuse of the right to free movement of services in the EU in the context of the temporary posting of Ukrainian citizens.

<sup>7</sup> For this reason, it is impossible to estimate the number of Ukrainian workers sent to the Czech Republic using Polish visas.

<sup>8</sup> This document is a civil law contract, so it is not a labour law document. This type of contract serves to create fictitious postings of foreign workers, but in reality is a covert job intermediation. This is a kind of mandate agreement governed by the Polish Civil Code. For these contracts, social insurance is not often paid.

*letter “k” of the Employment Act, which speaks of the posting of foreign employees, cannot be applied as these people are not employees.”*

### *Interview with Labour Inspector*

In 2016, there were 9,308 inspections regarding illegal employment, including extraordinary control actions, where a total of 2,290 persons were found to be engaged in illegal work, of which 997 were Ukrainian citizens, most often in the construction sector (SLIO 2017). The Foreign Police have issued expulsion orders for a growing number of Ukrainian citizens in recent years; in 2016, administrative expulsion was issued to 1,207 Ukrainian citizens due to undeclared employment - this number doubled in comparison to the previous year (Ministry of Labour and Social Affairs 2017).<sup>9</sup>

On the other hand, it is necessary to state that there is no obligation to have a work permit within the framework of the posting if a non-EU worker from another EU Member State is sent to the Czech Republic (§ 98k of Labour Code 435/2004 Coll.). In this regard, we can refer to multiple judgments in which the requirement to obtain additional work permits for third country nationals who are posted by a company from another Member State is a restriction on the freedom to provide services (e.g. Case C-113/89 Rush Portuguesa, C-43/89 / 93 Vander Elst). This means, according to this interpretation, a Polish visa is sufficient enough to send a non-EU worker to the country.<sup>10</sup>

## Intermediation of a Polish visa

In the monitored period, intermediaries most frequently offered Czech

<sup>9</sup> Further information on controls and expulsions: Summary information on the activities carried out by the relevant ministries combating illegal employment of foreigners for 2016.

<sup>10</sup> The interpretation of posting requirements may vary from country to country.

working visas, Visapoint registration, work enrolment and so-called vacancies (vakansja), meaning a charge for finding or arranging a job, as well as tourist/Schengen visas or Polish visas.<sup>11</sup> Jobs from Ukrainian intermediaries appear in groups such as «Work in the Czech Republic» or «Work in Prague» and on the social network «Vkontakte». Other services also offered ranged from health insurance to offers legalising documents from Polish visas to Czech. The job offers were mostly related to larger cities like Prague, Pilsen, Ostrava and Hradec Králové. The issue of documents is also problematic as the «purchase» of the visa is costly: a three-month Czech working visa ranged from € 270 to € 450, a regular Czech working visa from € 900 to € 1200 and a tourist visa for € 160. These amounts strongly exceed the net monthly average wage in western Ukraine - up to three times higher than the average salary.

Czech Visa Centres are located in Lviv, Uzhhorod and Ivano-Frankivsk, and the Consulate General operates in Lviv and Kiev. This is probably the reason why intermediaries are most often found in these cities. Selected websites offer the possibility of getting a visa in almost every larger city.

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### *Alexei (intermediary) on arranging a Polish visa*

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*A legal person in Poland invites a person eager to work to a specific place it has authorized. The same requirement being done here (Czech Republic) must be done in Poland too – namely an application filed with the Labour Office in Poland. And maybe twenty to thirty people will be allowed to come to the Polish Labour Office. So only a registered company in Poland and a job request/invitation are needed.*

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<sup>11</sup> Information is derived from both the interviews and our pilot analysis of selected sites offering (above all) Ukrainians work in the Czech Republic. Research sites were: <https://prostovisa.com/ua/visa/viza-v-chehiyu> , <https://vk.com/club117183389> , <https://vk.com/club56877923> , <http://visaagent.com.ua> , <https://vizaua.com/ua/visa/chehija> , <https://ok.ru/vizaeuropa> , <http://visantia.in.ua/work-visa-czech.html> , <http://vfglobal.com/> .

*The job seekers come to the visa centre or Polish embassies/consulates. Polish institutions require confirmation of a certain amount in a bank account, whereas registration of a criminal record is not needed in the case of Ukrainian workers. The final decision usually comes within a week.*

*Job seekers will either turn to companies that are intermediating directly in Ukraine, or they will request intermediaries already in Czechia. In general, people know those Polish companies, or they arrange it directly in Ukraine. It does not cost as much as in the Czech Republic; an invitation for half a year costs \$ 100-150.*

*There are not that many people applying directly for a Polish work permit. They either return home, try to get a Polish visa for another three months, or they choose to legalise their stay and work directly in the Czech Republic - to request a work permit or a work card which is valid for two years. But the problem was it was virtually impossible, as intermediaries wanted a thousand to two thousand Euros just for a "place in the queue" itself, just an electronic registration at the embassy.*

*Work and visas are important to job seekers. But, as the Czech Republic has closed itself off in the past two years, the gate has been opened through Poland.*

*Relationship between an intermediary and a worker works on the basis of the trust that someone has recommended someone. But there might be people who are searching ads on social networks; for instance, Facebook has a lot of groups such as "Ukrainians in the Czech Republic".*

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## The Polish visa as a socio-political state

The specifics of so-called Polish visas can also be seen from the perspective of their socio-political status (De Genova 2002), which is made up of networks of actors and is the daily reality that migrants experience, a subject that will be further developed later in the text. As was already mentioned in the introduction, such a socio-political state is created and modelled (Sassen 1998) by various actors and workers themselves. Moreover, this status is embedded in the institutional context limiting migration in the Czech Republic as well as the interpretations of the country's state bodies.

It is important to say here that many workers are certainly aware of the semi-legality of Polish visas.

*“It’s not normal. It’s illegal, but I have no choice.”*

*(Stefan, construction worker)*

Nevertheless, we can speak of semi-legality in this context because Ukrainian workers themselves adhere to certain rules. For example, our respondents have left for home in the past after the expiration of their Polish visa; this was confirmed by the intermediaries as well. On the other hand, it is also necessary to state that the Ukrainian workers were provided with little information by state authorities.

In the framework of our interviews, it was the employees' own decision to use the so-called Polish visa in order to gain easier access to the Czech market as an individual entry/residence strategy.

*“I found people doing business with visas, they earn money through that. I gave an advanced payment, he sent my registration and then, in Lviv, I had to submit a registration for a visa. I went there, submitted and sent.”*

*And in two weeks I got visa in Uzhhorod.”*

*(Peter, construction worker)*

If we compare Polish visas with other types of residence and work in the Czech Republic, we can say that the best position in terms of wages, labour and social rights are people with long-term residence, followed by temporary workers with a legal form of short-term working residence, then workers with a Polish visa and finally, with a tourist visa. During our interviews, for example, intermediaries stated themselves that they do not expect an influx of Ukrainian workers through tourist visas, because, for many of them, it means even greater danger and illegality compared to the semi-legality of Polish visas:

*I do not think that people would suddenly swarm here with the introduction of the visa waiver. And now if I called 10 people, just 3 of them would tell me that they could take workers with Polish visa. These people have such conditions that they can take a risk of the fine, they just need people. In majority of cases they will say that they need EU citizenship or permanent residence permit.*

*(Alexei, intermediary)*



**Table 1. Selected basic advantages and disadvantages/problems in using so-called Polish visas for selected actors on the Czech labour market**

Actors	Advantages	Disadvantages/ Problems
Ukrainian workers	<p>The ability to obtain a relatively simple permit to work in less qualified positions in a relatively simple way.</p> <p>To some extent, posting extends the autonomy of migrant workers in the sense that it allows them to work temporarily on the EU labour market.</p>	<p>Uncertainty - they do not have proper employment contracts, or their contracts are only a formality (fake contracts).</p> <p>Very often, mandatory agreements governed by the Polish Civil Code. In most cases, social insurance is not paid and minimum wage rules are not met.</p> <p>Few cases where work is performed under legal conditions.</p> <p>Working only for a limited time.</p> <p>Greater dependence on the employer providing work, accommodation or other services.</p> <p>A small degree of „collectivism“ of workers, diminishing the possibility of effective negotiation, defending in cases of unpaid wages, access to representation and ability to act as autonomous market players.</p>

		<p>Internalisation of semi-legal worker status. Permanent settlement is not possible.</p> <p>Precarious position, violation of labour law.</p>
<p>Entrepreneurs / enterprises – end users</p>	<p>A flexible tool to address labour shortage.</p> <p>A method used to gain greater efficiency.</p>	<p>Facing unexpected checks by the Foreign Police at a workplace, loss of workers and production failure result.</p>
<p>Intermediaries and “hidden” work agencies</p>	<p>Greater profits, because Czech labour law is only partially valid for posting people.</p> <p>Lower social security payments. In Poland, the employer pays 20.74%; in the Czech Republic the employer pays 25%.</p> <p>Possibility to abstain from social insurance payments - social security fraud. It should be paid in Poland, but it often does not happen (fake or no A1 forms).</p>	<p>More demanding organisation of work, mainly due to short-term residence and a constant circulation of workers.</p>

Removal of responsibility for working conditions and participation in protecting workers against social risks (particularly due to multiple subcontracting)

## Employment of Migrant Workers in the Construction Sector

### General developments

The financial development of the construction sector based on capital turnover in the Czech Republic<sup>12</sup> over the last few decades has been unstable: systematic growth throughout the 1990s continuing to 2008 (from 166 520 mill CZK in 1994 to 547 601 mill CZK in 2008), a stable moderate decrease after the 2008 crisis (from 547 601 mill CZK in 2008 to 424 609 mill CZK in 2016) with a positive variation in 2014 and 2015 (CZSO 2017b). This trend is supported by the differences in the construction production index,<sup>13</sup> which was highest in 2008, and by the value of all domestic construction works,<sup>14</sup> which rose almost threefold from 1994 (163 546 mill CZK) to 2008 (536 013 mill CZK) and then gradually decreased until 2016 (410 719 mill CZK), (CZSO 2017d). Despite the small growth in 2014 and 2015, the number of employees – including migrant workers – in the sector has been gradually decreasing (Marešová 2017), and

<sup>12</sup> Statistics are based on the total value of all the projects executed in-house by Czech construction companies and the value of projects outsourced to Czech construction companies by other organisations.

<sup>13</sup> The production index for construction is a business cycle indicator which measures monthly changes in the price adjusted output of construction (Eurostat 2017).

<sup>14</sup> Including new constructions, reconstructions, upgrades, residential and non-residential buildings, buildings for production, civil engineering works, water management works, and repairs and maintenance.

flexible and precarious forms of employment (mainly, bogus self-employment) have become more common (Martišková, Sedlaková 2016). This precarisation has been observed in other European countries during and after the 2008 crisis and is connected to the general tendencies of firms to outsource individual tasks to smaller subcontractors in order to save on costs and acquire greater flexibility. This has led to a fragmentation in the sector (Krings et al., 2015).

The Czech Republic's construction sector is a traditional sector attracting migrant workers from Ukraine (Drbohlav 2015; Seidlová 2016; Leontyeva 2016). Currently, Ukrainian workers make up 10 % of all those working in the sector (CEEC Research 2017). Work in the sector is characterised as dirty, dangerous and demanding and is traditionally done by workers who have lower education. Worth mentioning is a stereotype of a university-educated Ukrainian construction worker in the Czech Republic—this is not supported by the research. The share of university graduates among directly employed Ukrainians varies between 10% and 13%, while around five or six in ten Ukrainian employees have not completed a secondary education (Leontyeva 2016: 143).

Obtaining a Polish visa is one of the strategies used by Ukrainian migrants to receive a job in this sector. Our research reveals that the semi-official status of Polish visa holders leads to the absence of health and safety security, a disregard for training on the construction site, a constant change of working sites, informality on the one hand (Ukrainian workers did not mention receiving precise job-related instructions) and disciplination on the other (fines on the construction site are not regulated by the Labour Code). Moreover, arrears in payments are common, even in big companies.<sup>15</sup> Migrants are not the only ones who find their semi-official status to be an obstacle in obtaining a more stable and secure position, directors of Czech construction companies also criticise restrictive migration policies: 72% of them would appreciate easier legal employment procedures

<sup>15</sup> Interview with Iwan, an intermediary.

for migrant workers (CEEC Research 2017).

According to a representative of the trade union operating in the construction sector, almost 70 000 people left or were fired during 2008 and subsequent years. Many of them were skilled workers who now can be hardly replaced – some of them are retired already and newcomers do not have sufficient education due to an apprenticeship system which seems unsatisfactory to the union's representatives. It is arguable that this vast gap in the construction sector has been closing thanks to the tide of immigration.

Collective agreements between trade unions<sup>16</sup> representing construction workers, workers in transport, infrastructure and repairs, and entrepreneurs in construction were completed between 2016 and 2019. Hence, there is space for collective bargaining with officially employed workers. The union's representatives emphasised the change in the competitive environment, which became more cultivated compared to the 1990s in terms of following contracts and the implementation of ethical codes.<sup>17</sup> However, this did not lead to dramatic changes in wages: the gross average nominal monthly wage in the sector is only higher than the Czech average (1150 Euros/month) in big companies with more than 50 employees (1292 Euros /month). In smaller businesses, it remains 340 Euros lower than the average (954 Euros/month) (CZSO 2017b, CZSO 2017c). Ukrainian workers who took part in the present research named different numbers, from 901 to 1176 Euros/month. Moreover, given the outsourcing conditions described above, it is problematic to measure the factual influence of unions in the sector.

Due to the lack of data, it is hard to state how these unfavourable developments influenced Ukrainian workers with semi-official status in particular. However, it is arguable that they fall into the above described pat-

<sup>16</sup> Interview with a representative of trade unions, lawyer

<sup>17</sup> Interview with a representative of trade unions, lawyer

terns of obtaining lower wages, increasing flexibility and precariousness when working in an already unstable sector. Moreover, the construction union representative who took part in the present research emphasised the union would prefer qualified migrant workers to unskilled ones and stressed the need for stable and lasting employees to be integrated into the Czech labour market - only in this case can the union protect migrant workers' interests.

## Working conditions and personal experiences of migrant workers

The data reveals that migrant workers face intense, high-speed workloads with unregulated sanctions for defiance. It is common to work 11 or 12 hours per day. In cases where an order should be completed in a short period, it may be as high as 14 or even 16 hours. Managers of the construction company, the intermediary or his assistant, who works and subordinates the work of others on the construction site, measures the quality of work and its speed. The speed in turn is determined by the daily workload specific to each project. If a worker is too slow, the intermediary can fire him; however, as one of the workers admitted, this does not necessary lead to the non-payment of wages. Disciplination of workers through fines is common practice. Intermediaries can sanction a worker for different kinds of mistakes, from throwing working tools in the trash to drinking, which is considered to be a more serious mistake. None of these sanctions are regulated by the Labour Code or any other official regulation. Alexei, who has experience both as a worker and later as an intermediary, explains the disciplinary mechanisms on the construction site:

*When you get drunk, you receive a fine which might be a month's pay or half-a-month's, it depends. When I was carrying on business, there was a fine for alcohol at the site from 8000 to 10 000 CZK [320-400 euro] and*

*nobody cared who, what or why. I never got this fine, but I got the smaller ones.*

*(Alexei, an intermediary and a former worker)*

While the high intensity of work and disciplinary role of sanctions were mentioned by all respondents, time arrangements and managerial roles on the construction site varied. Peter, a former teacher of decorative art from Ukraine, who now works in a small construction company with 10-15 employees, described his ordinary day at work as follows. It starts at 7 am when he arrives at the site and lasts until 6 pm, when he finishes his work. He wakes up at 5.30 am every day and travels for up to an hour to a construction site. Other respondents mentioned that travelling to the work site could take much longer as it could be in another region, or they can work at different construction sites during the same period of time. Peter has the possibility of having a paid lunch break during an 11-hour shift, but this possibility always depends on the on-site managers - some do not pay for the lunch break. Peter's working week lasts from Monday to Saturday, 6 days a week. There is no benefit for working weekends or overtime – his payment is always 4 Euros/hour with no regard to experience, education or years of practice. Because he is paid per hour he cannot take a paid leave; however, he can ask for a day off, which has never been a problem for the manager who provides him with a job. Peter noticed, that in urgent cases, when the project must be done fast, the site manager could ask him to work Sundays as well (which is not obligatory). Peter's working load is common for Ukrainian construction workers; the majority of them prefer to work as much as possible with minimal days off and then return to Ukraine (Čaněk 2017). Repeated returns to Ukraine is common in the company where Peter works; workers are constantly changing - when some go home, new ones arrive. He himself knows that after three months he will quit his job, go back to Ukraine, get a visa and come back to the Czech Republic once again.

Peter's description of his ordinary day resembles the descriptions of oth-

er workers who took part in the present study, mainly in the definition of a manager's/intermediary's role. Work conditions vary: the possibility to have a day off, to work on the weekend, to receive a wage deposit, to work on another construction site, and, finally, to leave back home – all this depends on a verbal agreement with a manager or an intermediary. It makes the working environment both flexible and insecure at the same time. It is worth mentioning that in some cases workers work directly for an employee of a construction company (like Peter does), while in other cases workers work via an intermediary. The intermediary can be personally present or have an assistant at the construction site. In both cases the payment is the same. Peter works directly and discusses all issues with the manager of the construction company. He even signed a document with the number of working hours, which is a rare case for Polish visa holders. Generally, relations between an intermediary and a worker are based on trust, they are not regulated by any institutional norm. Peter mentioned that in case a site manager breaks an agreement, there is the possibility of discussing it with higher management in the construction company. He recalled a situation when a site manager cut the working hours and gave workers less money. After workers visited the higher management of the company, working conditions became better. Peter even remembered a situation where he left work early and still got paid. However, in cases mentioned by other workers, there was no possibility of discussing problems with higher management. One worker recalled an intermediary who disappeared after three days and did not pay him anything. The worker stopped working, but had no chance of recovering the money he had earned.

A further common feature of work on a construction site is the absence of prior training.<sup>18</sup> Peter remembered one unskilled site manager who did not know exactly what workers should be doing. It was Peter's first day of work. He was confused and did not know what to do, so he just

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<sup>18</sup> According to an intermediary, training is mainly provided in bigger companies (Alexei, worker with experience as an intermediary, I1).



had to observe other people working and rely on their suggestions. In this context, Peter described his experience with the intermediary as follows:

*Finally, after few days we found a job, but the client [intermediary] was weird and irresponsible. We came to a site and after five minutes he disappeared. He did not show us how to do the work, only Czech people were there... I did not understand anything. We worked for two days, then on the third day, we had been working so hard I was not sure if I needed the money. We were carrying concrete to the 5th floor up the stairs. It was so hard, I was saying to myself: I am calling for a bus home to Ukraine right now, I don't need the car I wanted to buy or the money anymore.*

*(Peter, construction worker)*

Poor safety protection is another common issue mentioned by all the workers. There are no safety instructions given to the workers and little attention is paid to the protection of workers. One of the workers reported that neither he nor his co-workers had protective gear, including a mask or helmets, only gloves were available. Given the fact that the health insurance most Polish visa holders obtain has very little coverage in the Czech Republic, any injury might be costly and lead to debts or a further rejection of medical treatment.

## Living and social conditions

Men live in shared flats and pay between 120 and 160 Euros for a place in a room. They found this accommodation either with the help of friends or via the internet. It is more common to live with other Ukrainians. Some Ukrainians with official documents rent a flat from a Czech owner and re-rent it to Ukrainians with Polish visas (Stefan, construction worker). Other costs include transportations: sometimes a worker does not only travel within Prague but also outside the city, which requires an

additional bus ticket. Finally, food for two people (a worker and his wife) costs around 315 Euros (Vasyl, construction worker).

Remittances were common for Ukrainian workers, but they preferred to bring them home themselves rather than sending them. Some informants mentioned that they will buy a car or spend the money on house repairs. The problem of separation from close family is often reflected in the stories.

*There is one problem: the family. It's difficult when my family is in Ukraine and I'm working here. It would be really nice if my wife and daughter could be here with me.*

*(Stefan, construction worker)*

Socialisation and relationships with Czech citizens is a further important issue. Some men mentioned they like to go to a bar, for a walk, or play football. However, they often miss ties or friendship with Czech citizens. This can be caused by the language barrier, which does not allow people to communicate at the work site, and therefore it is harder for them to establish close ties. Moreover, the sites of work are often changing, hence long-lasting working relationships are hardly possible. Finally, and most importantly, is the permanent circulation from Ukraine to the Czech Republic in order to receive a visa and work. This circulation presents a serious obstacle to the migrant's socialisation and involvement in the institutional structures (related to work or not).

*Summary of the main problems caused by the semi-official status of Polish visa holders*

### *General developments in the construction sector*

- After the 2008 crisis precarious forms of employment became more common, 3d jobs
- Ukrainian workers receive from 901 to 1176 Euros/month (average

for the country is 1150 Euros/month)

- The 2008 crisis caused a labour outflow from the sector, which led to a growing demand for workers
- There are collective agreements in the sector, however, they cannot be applied to Polish visa holders
- The construction union is asking for qualified, stable employees
- 72% of construction company directors would appreciate easier legal employment procedures for migrant workers
- 10% of all workers in the construction sector are Ukrainian

### *Institutional insecurity*

- No contract with employer, exclusion from the system of social security
- Poor health insurance paid by workers themselves
- No bonuses
- No clear mechanisms to demand rights (more on this topic in the chapter Worker's Perception of Justice)

### *Insecurity at the work site*

- No prior training
- No safety instructions, no proper protection for workers
- Work with intermediary and without – payment is the same: four Euros/hour
- The person giving the orders changes from site to site, managerial structures vary, which leads to higher precarisation of a worker's vulnerable position
- Organisation of work differs from site to site, which leads to higher precarisation of a worker's vulnerable position
- Unregulated system of sanctions
- Intensive workload: 10-11 hours/day, in urgent cases might be 14
- Absence of paid leave, insufficient number of days off caused by the

migrant's strategy to earn as much money as possible

### *Personal insecurity, deficient socialisation*

- Separation from the family
- A worker finds himself in circles of working in the Czech Republic and waiting for a visa in Ukraine, which seriously obstructs establishing connections, socialisation and integration into Czech society

## Employment of Migrant Workers in the Hotel Industry

### General developments

When it comes to the number of new accommodation facilities and the number of employers, the hospitality sector in the Czech Republic has been stable over the last several years. Despite an increase in the number of tourists visiting the country between 2012 and 2016 of over 25% (CZSO 2016a), it has not led to a major change in the number of accommodation facilities,<sup>19</sup> which was lower in 2016 (9,168) than in 2010 (10,057) (CZSO 2016b)<sup>20</sup>. A corresponding number of employees in the hospitality sector (including restaurants and other food facilities) underwent marginal growth between 2012 and 2016; however, this number has stayed almost the same over the last 10 years (with a decrease during a period of economic stagnation in 2012 and 2013) (Martišková, Sedlaková 2016; CZSO 2016c). In comparison with the construction sector, unions in the hospitality sector are weak. There is only one that has been func-

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<sup>19</sup> Data gathered by the Czech Statistical Department before 2012 is not comparable with previous years. Available at: [https://www.czso.cz/documents/10180/46173161/32018117\\_1001.pdf/b20063ea-7dce-4d53-aa06-792419c086a8?version=1.1](https://www.czso.cz/documents/10180/46173161/32018117_1001.pdf/b20063ea-7dce-4d53-aa06-792419c086a8?version=1.1)

<sup>20</sup> It is important to stress that these statistics do not cover the latest development on the market of the so-called shared economy (Airbnb) and the offer of apartments.

tioning since 1990 with very low density (0% - 9%) (Eurofound 2012). Moreover, this union is not helpful for workers with semi-official status.

The demand of the market cannot fully explain the drift of migrant labour into the hotel industry. A lack of data undermines a possible explanation based on change in the employment structure of the hospitality sector and the hotel industry in particular, as is the case for some European countries (Krings et al. 2015). What could be discussed is the concurrence of factors which accompany the phenomenon of semi-official status of Ukrainian women in the mentioned sector and the way in which they perceive this status.

The hotel industry offers highly feminised employment, mainly involving the cleaning of rooms and laundry. All hotel employees who took part in the present research were female and when describing their colleagues did not mention any men (this does not include the intermediary). While the construction sector attracts men, the hotel industry attracts female migrants from Ukraine, which corresponds with the findings of previous researchers that asserts that “[l]abour migration from Ukraine is strongly determined by the work-sector gender-destination country paradigm” (Fedyuk 2016: 74). Previous research also demonstrated that it is harder for women to find a job in Ukraine and periods of unemployment for women are longer than for men (Molodikova in Fedyuk 2016), which is a strong economic push factor.

An important finding of the present research is that there is a gap between women and men with the same semi-official status as Polish visa holders – women in the hotel industry earn approximately one Euro less than Ukrainian constructor workers with a Polish visa. As for the monthly wage, respondents named numbers ranging from 784 to 1058 Euros. This gap does not correspond with the work Ukraine women are exposed to in order to earn enough money: the quality of work is measured by speed, which might be 20-25 rooms/day (another hotel housekeeper mentioned

2 Euros/room); no paid leave, a day off could be considered a sanction due to loss of money; women try to work as many days as possible without a break and they are trapped in a circle of working and obtaining a visa. Moreover, women expressed a strong belief that those who have official status earn more in the hotel industry. On the other hand, work in the hotel industry is not project-dependent and hence less insecure. In the case of trustworthy and long-lasting relations with an intermediary, there is the possibility of saving a position after going to Ukraine to await a visa.<sup>21</sup>

## Working conditions and personal experiences of migrant workers

*I feel tired. But I must work. The amount of work we get is not what an official worker gets, this is quite clear. But we are grateful that there is work, and this work is paid.*

*(Natalia, hotel housekeeper)*

Despite the effort which Natalia puts into her job, she still chooses the strategy of earning a sufficient amount of money based on working the maximum possible amount of hours. Wages in the hotel industry for Polish visas holders are low: around 3 Euros/hour. Nevertheless, Natalia considers it to be better compared to a job in a bakery she had before (the difference is 0.20 Euros). Time arrangements of this work differ slightly from hotel to hotel, but it often starts around 8 in the morning and lasts a minimum of 8 hours. Natalia has a paid 30-minute break. Other women claimed that they did not have lunch paid or, conversely, had free food from the hotel. Natalia tries not to take days off or sick days, and therefore works 270-280 hours per month. She never received security training; however, in some hotels women had one-day non-paid training or at least instructions from a main hotel housekeeper or a hotel admin-

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<sup>21</sup> Natalia, hotel housekeeper

istrator.

When women come to a hotel they must prove they are suitable for the offered job through their attention to detail, thoroughness and speed of cleaning. Otherwise, due to the high turn-over of workers, another person will take the place of a woman who cannot prove to be “fast or thorough enough”. On the other hand, when a woman performs a fast and clean job, she can discuss a longer leave (a month) with an intermediary.<sup>22</sup> Bonuses are possible, however, only one hotel housekeeper received it and she did not know why. Shifts can be discussed directly with the main parlour hotel housekeeper or administrator at the workplace. During the tourist season, it is harder to negotiate fewer shifts because there is a need for workers.<sup>23</sup> In some cases, hotel administrators might be of migrant origin, but they always have legal documents. Therefore, without legal status it is impossible to receive a promotion from the position of a hotel housekeeper. While the main parlour hotel housekeeper or administrator (in a 4\* hotel) oversees the quality of the hotel housekeepers’ work, it is hard to say if they, or the higher personnel, are aware of the fact that Ukrainian women do not have legal documents for this kind of work. Maryna, an educated teacher of Russian and English with a grown-up son, explained her experience when she was forced to show her documents to the hotel manager:

*I had one incident, for example, in one of the hotels... I came to work... Nobody had ever asked me for documents. But one day they [workers in the hotel] asked me for a passport. They made a copy of it and I confessed that I had a Polish visa. It was in June or July, just recently. The manager was shocked. It was a woman from Moldova. But they really needed people, so they turned a blind eye. That’s not all – I also came the second day. She [the manager] told me ‘you won’t be here tomorrow’ [...] I said that I do not take the decisions. If my client [intermediary] calls me and*

<sup>22</sup> Natalia, hotel housekeeper

<sup>23</sup> Natalia, hotel housekeeper

*tells me not to go, I won't come. But she did not call.*

*(Maryna, hotel housekeeper)*

The case of Maryna demonstrates the role of an intermediary in the working relations between a Czech employer and a worker. In this case, the intermediary makes a decisive judgment about providing a hotel with workers, even in cases where the hotel management is aware of their semi-official status. In another case, a working contract<sup>24</sup> was signed<sup>25</sup> in order to demonstrate the legality of the worker to the owner of the hotel. In both cases, women are dependent on the intermediary's decisions about them working or not and on the evaluation of their work by the main hotel housekeeper or administrator. The intermediary is not present in the hotel.

Maryna assumes that one intermediary works for several hotels, mostly belonging to the same category. Contracts are rare: most often the intermediary does not provide any documents to the employee, does not offer any kind of agreement except a verbal one and does not cover expenses for health or social security systems. It is worth noting that not all intermediaries are willing to take the risk of hiring workers with Polish visas in the hotel industry.<sup>26</sup>

Wage by hour and amount of work done differs depending on the numbers of hotel stars: in 4\* hotels, 20 – 25 rooms during an eight hour shift in comparison with 15 rooms in 3\* hotels with a 20-cent difference in the wage per hour (3.00 Euro and 3.20 Euro respectively). Employees receive the wage directly at their place of work in the hotel or in the intermediary's office. The quality of work is measured by the speed, which depends on the category of hotel and the thoroughness of the cleaning. In the case

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<sup>24</sup> This was a work contract that stated that a woman could work 300 hours/year; however, she was working more than 300 hours/45 days.

<sup>25</sup> Dina, hotel housekeeper

<sup>26</sup> Dina, hotel housekeeper



of a mistake, the hotel housekeeper receives a day off, which is considered sanctioning because it means a loss in pay. It is also for this reason that workers are not interested in a day off (Natalia, hotel housekeeper). Women described the intermediary working in the hotel industry as reliable and unproblematic (which means that they provide a job and pay the wage as agreed upon):

*They are people, the same as us, who want to survive in the labour market and earn some money.*

*(Natalia, hotel housekeeper)*

None of the women recall problems with payment in the hotel industry. However, in the case of non-payment, from the side of the intermediary they have almost no chance of getting their money back. However, what might be even more important is the workers' personal denial of membership in institutional entities caused by internalised feelings of being deprived of rights, naturalised illegal status, and a fear of institutional authorities which intensifies after police raids. During interviews, respondents often referred to themselves as illegal migrants and therefore reject institutional help, including the help of lawyers and NGOs:

Once, I thought about that [contacting an NGO for legal help]. There is a webpage... but the fear always stopped me [...]. There is free legal help for foreigners in the city centre, all the information about it is available online. But there is always something stopping me – the sticker [visa] in the passport. This is because massive raids took place, and I was afraid to go to work or asking an institution for help...

*(Natalia, hotel housekeeper)*

## Living and social conditions

The living arrangements of Ukrainian women follow a pattern of moving

from worse to better conditions, from dormitories to shared flats (Ezzeddine 2012). While conditions in the dormitories might be extremely hard<sup>27</sup> (non-residential facilities such as warehouses with several beds in small rooms are used as living facilities), the rental prices are lower than that of flats (one bed in a dormitory costs 100 Euro,<sup>28</sup> while a spot in a shared room of a flat costs around 160 Euro<sup>29</sup>). However, women with semi-official status do not have the possibility of having a rental contract, and with no knowledge of prices for the communal services in the Czech Republic, they might be easily deceived by landlords both in dormitories and in flats. Maryna, who was using heating even in May because her room was too cold, describes a landlord who asked for more money for rent without providing any kind of sufficient document:

*We paid 100 Euro for one month, but it was tricky, because it was 100 plus the heating. [...] and there were no radiators, nothing like this. So, we were using a heating unit. Counting everything it was 140 Euro per month. We were using heating even in May. [...] The price was unreal. [...] He [the landlord] just looked at a heating counter, put the numbers in calculator and told us the price.*

*(Maryna, hotel housekeeper)*

Outside of paying for a place to stay, women also must pay for transportation and food. With a salary of approximately 800 Euros/month, it is hard to cover all expenses, send remittances and maintain a proper living standard at the same time. Moreover, such overwhelming employment obscures any possibility of having a social life. The women put work and earning money above other interests, but more importantly, while working long stretches with minimal days off they simply do not have the time, ambitions and energy to make friends:

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<sup>27</sup> Interview with an NGO lawyer

<sup>28</sup> Maryna, hotel housekeeper

<sup>29</sup> Natalia, hotel housekeeper

*I didn't make friends here. Maybe it's not possible in half a year. I don't have a friend to go with to a club. I ask myself: why could I not find friends here? Maybe it wasn't my goal.*

*(Maryna, hotel housekeeper)*

*Summary of the main problems caused by the semi-official status of Polish visa holders*

### *General developments in the hotel industry*

- Low union density
- Stable sector: the number of employees has remained almost the same over the last 10 years (187.100 in 2006, 183 000 in 2016 (CZSO 2016c)), the number of hotels has also remained almost stable over the last 4 years (6 350 in 2012, 6 022 in 2016 (CZSO 2016d))
- Highly feminised sector
- Ukrainian worker gets 784 to 1058 Euros/month (average for the country is 1150 Euros/month)

### *Institutional insecurity*

- A contract with an employer is rare and would be made only for the protection of the employer, not the employee
- Exclusion from the social security system
- Poor health insurance paid by the workers themselves
- No clear mechanisms to demand rights (more on this topic in the chapter Worker's Perception of Justice)

### *Insecurity in the workplace*

- Unpaid prior training
- Quality of work is measured by speed and thoroughness, which is defined by the main hotel housekeeper or administrator of the hotel

and is not regulated by any documented norm

- No safety instructions
- Intermediary is not present in the hotel, s/he connects employer and employee, pays the worker and decides if a hotel housekeeper will stay in a hotel or not
- Intense workload depending on the season and type of hotel
- Absence of paid leave, insufficient number of days off caused by the migrant's strategy of earning as much money as possible
- In some cases, days off are considered to be a sanction
- Promotion is impossible without a Czech visa
- In some cases, bonuses are possible, but it is not clearly defined what for
- Paid 30 minutes break/free lunch depends on the hotel

### *Personal insecurity, deficient socialisation*

- Separation from family
- Some women expressed feeling a fear of meeting policemen on the street, mainly after the raids in April 2017
- Some women were deceived by landlords who did not provide sufficient documentation for the community charges (payment for heating)
- A worker finds herself in circles of working in the Czech Republic and waiting for a visa in Ukraine, which seriously obstructs establishing connections, socialisation and integration into Czech society

## Workers' perceptions of justice at work and mechanisms of demanding it

Interviews with Ukrainian workers reveal that relationships between an intermediary and a worker are based on trust both in the hotel and construction sectors. On the one hand, trust might play the role of a regu-

latory mechanism in relationships between workers and intermediaries. Women working in hotels emphasised that in cases where an intermediary is irresponsible and untrustworthy, it spreads fast among the workers and their reputation could be damaged – women will no longer be willing to work with this intermediary (Maryna, hotel housekeeper). On the other hand, trust leads to personal dependency which, accompanied with their internalised illegal status, means a distrust of institutionalised mechanisms that help in cases of rights violations. Distrust of the institutions leads to a devaluation of the complex issue of labour rights (an institutional problem of the tripartite) to the level of plain humanity (a problem of human dignity): a situation when a worker defends his/her basic rights even at the risk of being fired:

*I was fighting for human rights the whole week; I wanted to have soup in the café [where the woman was working]. I regained the right to have soup after a week. And a salad. [...] When I spoke about food for the first time, this person was staring at me like I was asking for something unreal. A bowl of soup. It was a Czech person. I was literally fighting for my human rights, I am speaking seriously.*

*(Maryna, hotel housekeeper)*

Maryna's story is unusual; no other worker mentioned any attempts to get a free lunch. Her undertaking did not end well: one morning after working a few days in the cafe she came to work and saw another woman working instead of her. She received no call from the intermediary and did not know she was fired.

A more common manifestation of injustice is non-payment or underpayment of wages (it does not apply to non-payment for overwork, working weekends, work late hours, or night-shifts, etc.). All workers mentioned they have heard of or personally had problems with payments. Such problems reside in the semi-official status of workers, of which they are fully aware. They also perceive a gap between Ukrainians and Czechs

who are better paid and more secure about receiving money thanks to their official status. This gap cultivates a feeling of exclusion (Peter, construction worker). Moreover, some Czech employers might abuse their insecure status as a Ukrainian worker: You are afraid to contact someone because you have a Polish visa. And those people [Czech employers] are simply abusing this... (Vasyl, construction worker).

Ukrainian workers mentioned several mechanisms for demanding justice which they had personally used or heard of. One of them involved groups of people, bandits, as Maryna, the hotel housekeeper, called them. She never used their help herself, but she knows people who did. She thinks that some time ago this mechanism of wheedling the money out of the intermediary was quite common, but not today. According to her, today even the bandits are afraid (she did not specify of what), and they work only on cases where the debt is higher than 4000 Euros. They will take a percentage of the money for their services. Construction workers were also aware of this option. Stefan claims: *there are specialised groups of people who get the money from intermediaries. They take 50% of the owed money.*

Another option, mentioned mainly by the construction worker, was to stop working and collectively leave the construction site. In this case collective action worked, and the intermediary brought the money:

*There was a problem with the first intermediary. I had worked here for two months, before the end of the year, and we agreed on a monthly pay. After the first month, he gave me a kind of wage deposit, 120-160 Euros. So, I told him to give me the rest after the work was done. I worked for two months and then I needed to go back to Ukraine, so I told him and he said he had no money... The guys that worked there with me, they didn't get paid either. We waited for a week, and then we said we're leaving. As we were waiting for the bus, he came and paid us.*

*(Stefan, construction worker)*

However, in cases when the work is already done, and a worker has left the position, it might be very hard to receive earned money. In one case, a hotel housekeeper was trying to contact the intermediary directly and demand the money she had earned, but the intermediary just stopped communicating. A hotel housekeeper expresses her despair and experience of being unarmed in cases of non-payment:

*I got paid in May for March...because I left. Of course, I told her in advance [that a hotel housekeeper wants to leave], but I heard, 'you have broken the terms of our agreement'. This is funny. 'What kind of agreement?' I said to her. 'Shall I work for you until I retired? Or what kind of agreement?' In the end, I didn't get all the money. How do you solve that? I threatened her on the phone and wrote a message filled with tears. She told me, 'these are your problems'.*

*(Maryna, hotel housekeeper)*

A further mechanism to demand payment is talking to higher management. This was the case for Peter, a constructor worker. Generally, he stressed that if he feels his rights are being violated, he will immediately leave the job. But when the site manager cut hours and gave less money than the workers expected, the higher management of the company got involved. Peter did not receive money for the hours that were cut, but the manager of the site changed his attitude towards workers - once Peter managed to leave two hours early and still got paid for them.

As for institutional solutions, NGOs or lawyers, nobody from the workers who took part in the present research contacted any institution in order to demand justice. This distrust of judicial or collective solutions should be understood with a reference to the work culture in Ukraine, where *workers often count on their own personal perseverance and connections to solve problems* (Fedyuk, Volodko 2017). In the Czech Republic, this distrust of institutions is accompanied with an emotional experience and the internalised “illegality” of migrant workers. Natalia, a

hotel housekeeper, expressed feeling fear of the police, especially after the police raids in April 2017, which stopped her from contacting an NGO despite having had a phone number. Maryna, another hotel housekeeper, expressed her concern about institutional help: *it's funny to have the status of illegal worker and ask a lawyer for help*. On the other hand, the fear of police led to infrapolitical tricks (such as a prepared story to tell) and a search for basic information (some workers know that the police cannot ask for documents at will).

Finally, problems with payment could be dependent on general developments in the sector. This mainly applies to the construction sector which is slowly recovering after the 2008 crisis, but its production is still 16% lower than in 2008 (Ministry of Industry and Trade 2017). Therefore, a solution to payment problems is not always in the hands of an intermediary. A middleman describes it as a more general tendency in the sector:

*Generally speaking, Ukrainians do not want to work in construction so much today, because it is not money making... Money always gets stuck there, there are problems with payment deadlines. I know many guys who were working with A [big joint-stock construction company], and the money was stuck there for a year while the guys went unpaid.*

*(Iwan, intermediary)*



*Summary: mechanisms for demanding justice named by workers with semi-official status<sup>30</sup>*

Mechanism	Description	Sector of experience
Involving "special groups"	<ul style="list-style-type: none"> <li>• Respondents did not have personal experience with this mechanism, but are aware of it</li> <li>• "Special groups" work for a certain amount of money (supposedly, 50%)</li> </ul>	Both hotel and construction
Asking higher management/employer to solve the problem	<ul style="list-style-type: none"> <li>• Respondent from the construction sector used this mechanism and it led to a better attitude of the site manager towards the workers</li> <li>• Respondent from the hospitality sector used this mechanism and it led to her discharge</li> </ul>	Construction, hospitality (a coffee shop)
Addressing the intermediary directly	Respondent from the hospitality sector (canteen) tried to use it unsuccessfully – she did not receive the money she had earned back	Hospitality (canteen)

<sup>30</sup> This table includes all mechanisms which were named by migrant workers. Some of them refer to the working experience in a wider sector of hospitality (canteen and coffee shop), which is highly relevant in understanding the general picture of migrant workers' possibilities.

Personal resistance – refusal to work, leaving a workplace, collective action	Respondent from the construction sector used this mechanism and it led to the disbursement of earned money	Construction
Self-regulating trust between workers and intermediary	Respondent from the hotel industry pointed out that an intermediary with a bad reputation is at risk of workers' unwillingness to work for her/him	Hotel
NGO	Small awareness, little trust of institutional solu- tions (also in the Ukraine) Internalised "illegality" stops them from contact- ing NGOs	None
Unions	No awareness, little trust of institutional solutions (also in the Ukraine) Internalised "illegality" stops them from contact- ing unions	None

## The Role of Other Selected Actors

In this section, we focus on a number of selected actors, their role in the process of forming a 'Polish visa worker' category. We also look into the possibilities of intervention in relation to demanding payment of unpaid wages and fighting poor working conditions. We chose actors who play

an active role in enforcing labour rights, demanding payment of unpaid wages and influencing a legal or public definition of the 'Polish visa' category. The selection also includes actors who describe the mechanisms of indirect employment through Polish visas or participate in these mechanisms.

## Intermediaries

In the relations of so-called clientelism (Čermáková, Nekorjak 2009), which arise between Ukrainian businessmen and their compatriots involving both legal and illegal work, especially in low-skilled jobs, we observe both the hierarchy of relations between employers, intermediaries and workers, as well as a continuum of relationships between an intermediary and organised crime (Lupták, Luptáková 2013).

The role of intermediaries and the services they offer vary. Similarly, the extent to which individual workers use intermediaries differs. A worker could use the services of one intermediary, which provides services ranging from obtaining a residence permit, finding a job, organising work, and securing housing. In other cases, a worker could use services of a larger number of intermediaries or makes all the arrangements on their own (see Groutsis, van den Broek, Harvey 2015). Clients can stand by the employees, but if that is the case, there are limits to how one can intervene in how the user operates the workforce (e.g. raising wages and improving working conditions). This situation is even more complicated in the construction sector, where large subcontractors work on large construction sites (see also Fedyuk, Volodko 2018).

The dependence of the worker on the intermediaries undoubtedly increases in case of incomplete semi-legal or illegal work contracts (see e.g. the analysis of flexibility in Castells 1996). The increase in the number of permanently residing Ukrainian workers, on the other hand, transforms

the shape of the client system and supports the independence and autonomy of workers (Drbohlav 2015). Workers can work more directly for Czech employers outside the client system and can better defend themselves against labour rights' violations. The clientelistic system, which supports dependence and subordination, is thus stronger in cases of informal, semi-legal or illegal employment (cf. Drbohlav 2008).

In the case of non-payment of wages, the services of the mafia are also being used: "There are special groups that collect money back" (Stefan, construction worker). In order to convince one intermediary to pay out the non-paid wages, Stephan's friend ordered the work of a "friend". In return, they paid him half the total sum.

## Labour inspection

The formation of the socio-political status of a 'Polish visa worker' is also embedded in the institutional context restricting immigration into the Czech Republic, as well as in the interpretation of the situation among state authorities. In order to define the status of a 'Polish visa worker', the State Labour Inspectorate has contributed significantly, especially since 2015.

In the context of illegal employment in the form of concealed employment intermediating, the subcontracting of firms in chains was also revealed as a strategy to limit the scope and speed of sanctions from the state (labour inspectorate). According to the testimonies of inspectors, companies finalise a service contract with an intermediary (an agency). The intermediary then contracts workers from another entity in which the intermediary itself figures. This is how a chain of subjects develops and is likely to extend abroad - most likely to Poland in the Czech context. This, among other things, for SLIO means that it is almost impossible to find liable the company at the end of the chain, which has a contract

directly with workers. This reduces the possibility of intervention for the enforcement of labour rights.

The little chance of finding liable an actual employer of the workforce provides significant space for the expansion of these practices. This in turn diminishes the responsibility that usually lies with an employer for both working conditions and the social risks faced by the workers.<sup>31</sup>In other words, the situation supports outsourcing the maximum range of employer functions to an autonomous subcontractor. Furthermore, the subcontractor takes part of the employees' earnings for the services. Sometimes even the so-called clients (intermediaries dealing with companies) hire additional intermediaries. This further prolongs the chain and decreases the total amount paid to the worker.

In this respect, the current changes in the Labour Code of the Czech Republic provide an insufficient solution. Specifically, one of the latest amendments (effective as of July 2017) abolishes the previously established ban on the employment of third-country citizens without permanent residence. Currently, the law allows employment agencies to assign a foreigner to the user. This mechanism of employment is particularly problematic since migrant workers employed through employment agencies do not (usually) have access to trade unions as they are not direct employees. The greatest possible problem with the exploitation of workers can be expected from the agency employment of Ukrainian workers. On the other hand, the rules on how agencies operate have been tightened, and intermediary employment without a valid permit has been newly defined. This includes, in particular, the use of a contract for services, and a new sanction of up to CZK 5 million has been set.

Respondents - Ukrainian workers - did not have a clear idea of the func-

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<sup>31</sup> This year, inspectors encountered this problem in connection to a deadly work-related accident due to negligence that took place in Kladno (PČR 2017). Part of the equipment of the area where it took place was leased through such a chain.

tioning of SLIO. Our findings coincide with the analysis from the previous year (Čaněk, Kobová 2016b); that is the SLIO practice from the workers' point of view seems cumbersome and formalised. In addition, it appears difficult to communicate because of language barriers. According to Rudolf Hahn, the General Inspector of SLIO (Denial of Referendum 2017), it is possible to intervene better if an employee is acting actively against the pressure of the employer. This is, however, much less possible for workers with an unstable position, as is often the case for people working either in agency employment or semi-legal or illegal employment.

Employees with fake postings via Polish companies are usually not fined by labour inspectors but lose their jobs and are often deported by the Foreign Police (cf. Čaněk 2017). SLIO is not obliged to address the individual claims of employees. In addition, workplace inspections focusing on the legality of a worker's posting do not count inspecting working conditions among their priorities. This may result in a further weakening of the position of workers in terms of the possibility of claiming their rights or demanding back unpaid wages.

## Trade unions

The current favourable situation in the labour market has led trade unions to intensify their efforts to demand an increase in wage growth, and eventually to promote procedures leading to higher economic standing, for example, in connection with the challenges arising from the emerging digital revolution (Šulc 2017). However, according to the unions, this also goes with a necessity for regulation of the labour market. Therefore, they criticise the high demand to attract a cheap labour force from abroad to the Czech market. This, according to the trade unions, leads to social dumping, including exploiting the mechanism for posting workers (ČM-KOS 2017a). Social dumping has been a primary topic discussed within the ongoing trade unions' campaign called "The End of Cheap Labour",

which has been around since 2015. The negative stance towards labour immigration has been firmly upheld by the unions even though they are aware of the impact of likely unfavourable future demographic development (Stredula, Šulc 2017), which could find solutions in immigration. They also associate this position with a rhetoric emphasising the alleged dangers of labour migration, such as destabilising the labour market and halting positive developments in wage growth (ČMKOS 2017b).

In this reluctant way, they also comment on the possible increase of labour immigration from Ukraine, especially among less skilled workers (and thus also including workers with a Polish visa). As such, they come into conflict with employers' representatives who are calling for a broadening of the so-called 'Ukraine regime'. This arrangement would allow Czech firms to attract more medium and less-qualified staff from Ukraine in addition to highly qualified workers (SP CR 2017).

ČMKOS – the largest Czech confederation of trade unions- thus happens to be in contradiction with some of the points of its own program, e.g. in terms of promoting respect for migrants' rights, dignity and equal treatment (ČMKOS 2014). While some migrant workers are members of trade unions, there are barriers between trade unions and different groups of migrants, as evidenced by their low representation in trade unions, and low or no knowledge of the existence of trade unions in the company where they work (Čaněk, Kobová 2016).

## NGOs and the informal solidarity network SOL!S

The role of NGOs lies primarily in: a) the prevention of risk phenomena associated with the use of Polish visas for semi-legal migration and employment - contact with risk groups, distribution of objective information, identification of risk work; b) work with foreigners in a semi-legal position - assistance in solving problems resulting from the semi-legal

position; c) assistance to victims of labour exploitation - for example, in demanding unpaid wages (adapted according to Drbohlav 2008: 196-200).

Ukrainian workers mainly turn to NGOs when they are trying to legalise their stay or in the event of an emergency – such as in cases demanding unpaid wages. It is not always possible to provide them with the necessary help. In this case, it is, for example, difficult to help them to get back unpaid wages. If workers have a Polish visa, they mostly do not tell this to NGO staff. This information usually appears during the interview. At the same time, it is possible to observe the silence with regards to intermediaries: “One does not criticise intermediaries even though it is obvious a worker has got into this situation because of the intermediary” (Interview with a lawyer of an NGO).

From the point of view of some NGOs, simpler legalisation and accessibility to residence is needed. Due to the difficulties involved in obtaining a regular work permit and a relatively low risk of disclosure, unofficial channels for migration are preferable. This then contributes to the co-creation of the ‘Polish visa worker’ category. It would also help to ensure the impact, for example, of a sanction imposed on a Czech company that does not respect the conditions for services and rather corresponds to the definition of an employer. Furthermore, a better description of the legal situation would be needed to make the system more efficient. The underlying problem is the lack of comprehensible information available to workers –especially considering their stay and other rights.

Some possibilities to defend oneself against unpaid wages, even when unofficially employed, lie with the SOLIS Prague solidarity network.<sup>32</sup> Inspired by similar solidarity networks in other countries,<sup>33</sup> SOLIS functions as an informal group of volunteers and activists which jointly aims

<sup>32</sup> <http://solis.451.cz/>

<sup>33</sup> E.g. Seattle Solidarity Network <http://seasol.net/>



to solve problems at the workplace and beyond. However, since it focuses primarily on individual cases of labour rights' violations, the actual impact of SOLIS' activities is limited.

Interviews with SOLIS' volunteers and activists have shown that migrant workers– mostly women - are one of the most vulnerable groups most frequently seeking support. Everyone who contacted them had lived in the Czech Republic for a longer time and usually had experienced several occurrences where wages went unpaid. In 80% of cases, workers from Ukraine are the help-seekers. The most common problem SOLIS deals with is non-payment of wages. According to the activists, workers do not seek to deal with other rights' violations, even if they work under inadequate working conditions.

One of the main barriers blocking the success of wage recovery is once again the subcontracting and chaining of companies. The activists describe the phenomenon, in the context of an unsuccessful campaign to help a worker called Larisa, as follows:

“With Larisa, we found the address of the ISS headquarters and arrived there to hand over a letter asking them to pay the salary. The ISS representative took our letter and we soon got the answer. That morning, we realised that ISS was completely subcontracted out - they do not use head-hunters [intermediaries directly]. They directed us to Service Express, s.r.o., which is located near Teplice. They had been made a subcontractor for customer service, and this is 100%.”<sup>34</sup>

## Main Findings

The current favourable economic development and low unemployment

<sup>34</sup> For more information: <https://solis.451.cz/iss-a-headhunteri-jak-vyuzivat-cizinky-a-neplatit/>.

have influenced demand for labour migration in the Czech Republic as well as for workers from Ukraine. Nevertheless, the possibility of entering the Czech labour market was and is still very limited. Above all, there is a lack of entry opportunities for low-skilled workers in high demand. One of the ways to get to the Czech market is the use of so-called Polish visas, which we can perceive both as a strategy of companies and intermediaries to ensure a sufficient number of Ukrainian workers or as an individual entry/residence strategy of the workers themselves.

The use of so-called Polish visas can ultimately lead to the formation of a specific category of “Polish visa worker” as a socio-political state. This, on the one hand, means the everyday life of workers, but also a state co-created by networks of actors, the institutional context of Czech migration policy as well as the interpretations of governmental bodies that often define working through a Polish visa as illegal (e.g. as a so-called hidden intermediation of employment which can be perceived as a form of false posting). However, the labelling of workers as “illegal” is not a solution as they are needed on the Czech market, the risk of detection is relatively low and even if workers are deported, they can easily be replaced by another labour force from Ukraine within the week.

In our opinion, it is more appropriate to speak rather about the “semi-legality” that workers are quite often aware of because they adhere to certain rules - for example, by returning home after their Polish visa expires. This semi-legal status is also evident in comparison with a group of workers who arrived with tourist visas, as they posed an even greater risk to the intermediaries in the case of disclosure. As such, this way of entering the Czech labour market is perceived as illegal compared to the semi-legality of Polish visas.

Many workers also admit they had known about the risks and type of work before they decided to migrate, but they eventually came because there were no better options available. The main evidence of injustice at work is unpaid wages or underpayment. All workers indicated they had

heard of or experienced problems with payments themselves. Among other issues mentioned were a lack of security instructions and security training provision at the workplace, a lack of protective equipment and long shifts - overtime (e.g. 11-13 hours, 6 days a week). We can also observe a reduction of labour rights defined in the Czech Republic and the creation of non-formal labour standards which only work on a personal level between workers and job intermediaries. The relationship between these two groups is based on trust that gives some certainty to both, but at the same time it has a serious disadvantage – the creation of dependence on a person who might be irresponsible.

Workers are often reluctant to address institutions in case of a rights' violation because they do not want to draw attention to their irregular status. Control actions, such as the “Foreigner” police operation and the way it was presented in the Czech media, strengthens feelings of fear that is spread among foreign workers and creates a gap and distrust between them and state institutions. Moreover, many workers believe that laws, such as labour law, do not apply to them because they do not have Czech citizenship.

The peculiar phenomenon of internalising the semi-legal status of a “Polish visa worker’s category” can influence a difference in salary and type of work, a sense of exclusion, fear of detection and of reaching out to official institutions or NGOs. Sometimes it even happens that workers change their behaviour or dress, trying to “look like Czechs”. The Polish visa as a personal strategy and as a semi-legal status only reinforces the “individualisation” of the workers and thus their vulnerability. Some Czech employers or intermediaries can easily exploit the precarious position of a Ukrainian worker.

Personal and social networks are of great importance for sharing information. Relatives, friends and acquaintances, followed by intermediaries, are the most important actors helping to orientate within the Czech labour market. Most of the labour force was not aware that they could con-

tact one of the available NGOs for help or advice. Moreover, they are often unaware of their existence. There was also a generally observable absence of trade union activities. Institutions such as labour inspectorates, individual ministries or the Foreign Police are perceived as “abstract” bodies that cannot be contacted in the case of semi-legal work. In some cases, Ukrainian workers can deal with unfair situations by refusing to work, or taking the opportunity to report irresponsible intermediaries using social networks. Another option is to use the mafia or enforcer structures (actors that assist in collecting unpaid wages); however, none of these options constitute a systematic change in the violation of their rights. A relatively new subject that emerged in the Czech Republic is the so-called solidarity network, which helps to claim unpaid money using volunteers. Nevertheless, the possibilities of helping workers are marginal.

One way to protect workers from semi-legal status would be to recognise Polish visas as an opportunity to meet the conditions of posting, which should be accompanied by safety and working condition checks by labour inspectors. Still, it would not solve the precarious position of posted workers. A more sufficient step would be to support the possibility of direct employment of Ukrainian workers and to focus on monitoring their rights.

## Recommendations

### General recommendations

1. Respond within the framework of the visa policy to the composition of the main group of labour migration, which is mainly low-skilled labour from Ukraine. This would lead to a liberalisation of the visa policy for Ukrainian workers in low-skilled positions, who get to the Czech Republic anyway but often end up in semi-legal positions. In this respect, for example, the creation of new opportunities for entry to the Czech market as part of a strengthening of the special regime

for Ukraine (Režim Ukrajina), or the recognition of so-called Polish visas as a means of posting, when abiding by the conditions set.

2. The possibility of extending or officially obtaining a visa in the Czech Republic without the necessity to travel to Ukraine.
3. Increase the availability and clarity of information about visas, the possibilities concerning posting, the legal status of workers and their rights resulting from this status in the Ukrainian and Russian languages.
4. Increase the availability and clarity of information on the necessary permits that a migrant can obtain by himself or with the help of legal support from NGOs without the involvement of intermediaries, a client system or employment agencies.
5. Knowledge of language is key to integration: ensure language courses also through Skype, not only in the Czech Republic but also in Ukraine, so migrants can learn the language at home under less stressful conditions.
6. Increase the accountability requirements of end-users and private entities involved in the labour migration process from Ukraine, and increase respect for the rights of workers, whether employers or employment agencies; for example, in respect to safety at work, social security and health insurance payments, or wage conditions.
7. Cooperation with Ukraine: provide current information on the situation in the Czech labour market.

## Labour inspection

8. Due to the motivation of workers, which includes the desire to be a legal worker (suggested through the use of the more expensive Polish visas rather than cheaper tourist ones), change the control priority and concentrate not only on the illegality of the workers but a possible perspective of semi-legality in the case of Polish visas, as well as focusing on the control of labour and wage conditions.

9. Strengthen cooperation between labour inspectorates, non-governmental organisations and trade unions in order to create a safer environment and provide a protected status to semi-legal migrants, both in the form of complaints about rights violations and unpaid wages, as well as assistance with further consequences, which may occur in the event of their exploitation.
10. Transmission of the request to other state authorities, government representatives and the Parliament of the Czech Republic to increase penalties for the end-user of services and a requirement to increase its accountability.

## Labour unions

11. Diminishing expressions of labour migration as an economic (in the context of social dumping) or security threat that only strengthens other negative statements in the public / media area - for example, criminalising labour migration.
12. Labour market monitoring to understand better the phenomenon of social dumping and the role of migrants in it, as well as unequal treatment. Deeper cooperation and information exchange between NGOs and trade unions in order to have a thorough understanding of these phenomena.
13. Greater interest in integrating foreign workers into trade unions and the development of a specific strategy with a view to achieving their integration, e.g. overcoming barriers in the awareness of foreign workers with minimal or no knowledge of existing trade unions.

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This publication has been produced as part of the “Towards Stronger Transnational Labour Enforcement Cooperation on Labour Migration” (STRONGLAB) project, financed by the International Visegrad Fund and the Ministry of Foreign Affairs of the Kingdom of the Netherlands. This publication has also received financial support from the European Union Programme for Employment and Social Innovation ‘EaSI’ (2014-2020). For further information please consult:<http://ec.europa.eu/social/easi>.

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2018

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