

European Migration Network Study

MIGRANT ACCESS TO SOCIAL SECURITY AND HEALTHCARE: POLICIES AND PRACTICE

EMN National Contact Point for the Czech Republic

Department for Asylum and Migration Policy

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List of Acronyms

TCN	Third country nationals
CR	Czech Republic
EC	European Commission
EMN	European Migration Network
EU	European Union
FAM	Financial assistance in maternity
MoLSA	Ministry of Labour and Social Affairs
MoI	Ministry of the Interior
MoH	Ministry of Health
SEP	Self-employed person

Summary

The *Migrant Access to Social Security and Healthcare: Policies and Practice* study provides an overview of access to the social security system and healthcare in the Czech Republic (CR) for third country nationals. The study has been assembled by the national contact point of the European Migration Network (EMN) following the same specifications for all Member States participating in the study. The outputs of partial national reports will then be used to prepare an aggregate study of the European Commission that will provide comparisons of the results from individual Member States.

The first chapter of the study provides information on the purpose and objectives of the study and the methodology used. This chapter also defines the terms specific to the Czech environment. In its second chapter, the study offers a general overview of the access afforded to third country nationals (TCN) to social security in the CR; it lists the available welfare benefits and programmes, the mechanisms of their financing and their accessibility for TCNs. This chapter also mentions the institutional framework, i.e. the key institutions involved in the social security system, their terms of reference and coordination.

The third chapter gives a more detailed analysis of the rules governing TCN access to social security. This chapter focuses on selected groups of welfare benefits. This comprises healthcare benefits, sickness cash benefits, maternity and paternity benefits, old-age pension and benefits, family benefits, unemployment benefits and guaranteed minimum resources.

The general trend in the access of TCN to social security lies with the fact that the eligibility for non-contributory social benefits is dependent on a certain type of residence (with the exception of some disability benefits where the type of residence is irrelevant). It can also be stated that permanent residence entitles an applicant to all types of non-contributory benefits.

On the other hand, the eligibility for contributory benefits does not depend on the type of residence and is based on the duration of payment of contributions and no difference exists between the eligibility of TCNs and CR citizens for contributory benefits. Unemployment benefits are an exception to this, because in this case, permanent residence, a Blue Card or permanent or temporary residence of a family member of a citizen of an EU Member State is required.

Besides the type of residence, the length of stay in the territory of the CR applied for may also influence eligibility. This can affect access to state welfare support benefits (family benefits) according to valid legislation.

The third chapter also covers the fact that TCN access to benefits is bound to migration policy measures and the exportability of benefits to their countries of origin.

The fourth part describes the administrative practice, which may impact third country nationals' access to welfare benefits. Besides the measures defined by the legislation, MoLSA also has certain powers for judging the eligibility for welfare benefits and can, at administrative discretion, waive the condition of permanent residence in justified cases for family benefits and foster care benefits. Another example of administrative discretion is the awarding of extraordinary immediate assistance benefits. In general, it can be said that each case is examined comprehensively and individually, with the overall social/financial situation of the given person being taken into account.

The fifth chapter covers the bilateral agreements between the CR and third countries. In many respects, social security is a purely national matter. In nearly all states, social security legislation includes sections which confine provision of individual benefits solely to the territories of such states or which award benefits only to the citizens of the given state. For this reason, the CR is a party to many bilateral agreements, which govern the payment of welfare benefits. The CR thus is responding to the increased movement of people across the borders of states and helps to ensure eligibility for social security benefits.

The sixth chapter features several case studies illustrating the options for using social security. The outputs of the study and key findings are summarised in the eighth chapter. This overview is supplemented with statistics containing specific data (Chapter 7) and an annex with overview tables (Chapter 10).

1. Introduction

1.1 Objectives

The fundamental objective of this study is to map and analyse the policy and administrative practice, which determine access of third country nationals to social security and healthcare in the European Union Member States. The accessibility of these services considerably varies across the Member States because each country applies different rules for groups of migrants with regard to citizenship, duration of employment, contributions, place of residence or exportability of benefits. With its focus, this study represents the first step towards understanding the access afforded to labour migrants from third countries and their families to social security and healthcare within the managed migration policy.

The specific objectives of this study are as follows:

- to outline the formal rules governing the access to social security and healthcare for third country nationals in the CR;
- to compare this access with the rules for CR citizens;
- to examine the administrative practice which determines how the formal rules for third country nationals are applied in specific cases, particularly if the decision depends on interpretation by an official;
- to establish whether circulars, written instructions or some other form of support is available to officials for interpretation of the rules;
- to list the reciprocal agreements between the CR and third countries which impact access of certain groups of migrants to social security and healthcare.

In accordance with the previous EMN studies, this study, too, focuses solely on third country nationals. The study does not include cross-border workers, students, asylum seekers and refugees, tourists or irregular migrants. Specific rules apply to these groups of migrants or they were the subject of prior studies.

The study was prepared by all the EMN national contact points. These national reports will form a basis for the creation of a synthesis report which will focus on the similarities and differences in the rules and administrative practices in separate Member States. Its purpose will primarily be to provide reference for policymakers.

The differences in social security and healthcare systems place considerable demands on comparative analysis. For this reason, the harmonised terminology used by the MISSOC system is usually used by Member States in their national reports.¹ This system divides welfare benefits into 11 basic groups:

- (i) Healthcare
- (ii) Sickness cash benefits
- (iii) Maternity and paternity benefits
- (iv) Invalidity benefits
- (v) Old-age pensions and benefits
- (vi) Survivors' benefits
- (vii) Benefits in respect of accidents at work and occupational diseases
- (viii) Family benefits
- (ix) Unemployment benefits
- (x) Guaranteed minimum resources
- (xi) Long-term care benefits²

¹ MISSOC is the shared social security information system in the EU.

² For the Czech Republic, benefits for persons with health disability and foster care benefits were added to these groups.

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The purpose of the study is not to evaluate the interest of migrants in individual social security benefits or to compare this interest according to citizenship but to analyse the national policies and institutional frameworks, which form this interest to a certain degree.

The outputs of the study are primarily intended for policy-makers responsible for creating and implementing the social security rules in relation with the migration policy (at both European and national levels); experts with practical experience, for example, universities, research institutions and think-tanks working on the relation between migration and social security; non-governmental organisations; the general public with interest in access of migrants to social security; the media and other interest groups.

The significance of this study for the Czech Republic is mainly that it will provide a complete overview of the given issue with regard to third country nationals because the theme of social security and healthcare is addressed very generally by the overwhelming majority of available sources or addressed only with regard to CR citizens or EU citizens and mentions third country nationals only marginally. The single exception is the publication by M. Štefko and K. Koldinská, *Social Rights of Foreign Nationals*, the focus of which is on third country nationals.

1.2 Definitions

The terminology used in this study is based, just as in other national reports, on the EMN glossary. The harmonised terminology makes it easier to compare the results from separate Member States. In addition to the terms defined by the EMN, we add terms specific to the conditions in the Czech Republic.

Place of residence is the habitual (actual) place of residence of a person, which is not always identical to the “place of permanent residence”. It is the place where the interests of the person are situated.

Foster care benefits are intended for persons taking care of children, who have been entrusted to foster care. Foster care benefits include a contribution towards payment for a child’s needs, foster parent remuneration, benefit paid at reception of a child, contribution towards the purchase of a motor vehicle and benefit paid at termination of foster care. These benefits are parts of the non-contributory social security system.

Benefits for persons with health disability are benefits for which persons with health disability can apply for. They consist of a mobility allowance and a contribution towards the purchase of a special aid (including a motor vehicle). These benefits come under the non-contributory social security system.

Contributory benefits are benefits, the payment of which depends on the term of insurance.

Non-contributory benefits are benefits, the payment of which does not depend on the term of insurance.

Mixed benefits are a combination of the contributory and non-contributory systems.³

1.3 Methodology

The study was prepared by the EMN national contact point⁴ according to the harmonised specifications applicable to all Member States.

The source materials for the study comprised professional publications concerned with the Czech social security and healthcare systems. Emphasis was placed on the most recent publications containing up-to-date information. In this respect, particularly the book by M. Štefko and K. Koldinská, *Social Rights of Foreign Nationals*, proved to be useful. The basic information on the system of welfare benefits and healthcare insurance in the CR is provided by the publications from the Ministry of the Interior, the Ministry of Labour and Social Affairs, the European Commission or non-profit organisations working with migrants. This category includes, for example, *Information Publication for Foreign Nationals. Czech Republic*, published by the Ministry of the Interior of the CR.

Statistics and documents available on the Internet, particularly on the official websites of the relevant institutions (Ministries, non-profit organisations, the European Commission – MISSOC), were also used for the analysis of the

³ Information was provided by MoLSA CR.

⁴ Markéta Novotná participated in preparation of the study.

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aspects of social security. More detailed information was searched for directly in applicable laws. Thus, the source materials for the basic information on social security and healthcare in the CR consisted mainly of secondary sources.

However, since the issue of Czech social security has not been covered anywhere comprehensively with specific focus on third country nationals, direct communication with the public administration authority was of key importance for preparation of the study. Where there existed any ambiguity or two possible interpretations of a certain issue, clarification was provided particularly by the Ministry of Labour and Social Affairs and the Department of Asylum and Migration Policy of the CR Ministry of the Interior. Non-profit organisations working with migrants were also consulted.

Problems that arose in preparation of the study concerned particularly the lack of statistical data (for example, on the extent to which third country nationals exercise their rights provided for in the bilateral agreements between the CR and third countries) or the categories missing in statistics (in connection with employment of migrants, for example, the category of “inactive persons” is not used).

2. Overview of the Czech Social Security System and How It Applies to Migrants from Third Countries

2.1 Table Showing an Overview of the Social Security System for TCNs

The table below summarises the national social security system⁵ applied to third country nationals. It shows the available benefits and programmes, the mechanisms of their financing and their accessibility. The table only shows the accessibility of the benefits for third country nationals **according to the type of residence**. Other conditions (such as the period for which contributions are made to the social security system, the duration of employment) are not taken into account; these conditions are further covered in Part 3 of this study.

The table shows that **eligibility for non-contributory social security benefits** usually **depends on a certain type of residence** (most often permanent residence and residence based on international protection or, as the case may be, residence of persons with recognised legal status of long-term resident in the European Union, residence for the purpose of scientific research or a Blue Card), whereas **eligibility for contributory benefits** is dependent on the **duration of payment of contributions**, with the entitlement to contributory benefits **being no different for TCNs and CR citizens**.

Thus, the type of residence does not play any role with regard to contributory benefits. The exception to this is unemployment benefit, which requires a permanent residence, a Blue Card or permanent or temporary residence of a family member of a citizen of an EU Member State and if he/she does not have such residence, then the address of the place where he/she habitually resides in the territory of the CR. Conversely, the type of residence determines the eligibility for non-contributory benefits (with the exception of some invalidity benefits where the type of residence is irrelevant).

It can also be said that **permanent residence** entitles an applicant to all types of non-contributory benefits (as well as, of course, contributory benefits).

⁵ Based on the shared MISSOC information system.

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Table 1: Overview of the social security system and the mechanism of its financing⁶

Social security pillar	Individual benefits and programmes in each pillar	Financing mechanism (contributory / non-contributory / mixed)	Accessibility of benefits for third country nationals
I. Healthcare	Public healthcare	Contributory	Public health insurance: - permanent residence, ⁷ - employee of an employer with their registered office in the CR ⁸ Contractual health insurance: - the type of residence has no effect on the benefit
II. Sickness cash benefits	Sickness pay	Contributory	The type of residence has no effect on the benefit
	Nursing benefit (benefit paid for nursing a family member)	Contributory	The type of residence has no effect on the benefit
III. Maternity and paternity benefits	Financial assistance in maternity	Contributory	The type of residence has no effect on the benefit
	Compensatory benefit in pregnancy and maternity	Contributory	The type of residence has no effect on the benefit
IV. Invalidity benefits	Disability pension	Contributory	The type of residence has no effect on the benefit
	Rehabilitation and re-adaptation	Non-contributory	The type of residence has no effect on the benefit
	Care benefit paid to persons who personally regularly	Non-contributory	The type of residence has no effect on the benefit

⁶ Information from MoLSA; *Information Publication for Foreigners: Czech Republic*, MoI CR, 2011; *Guide to the Healthcare System of the Czech Republic*. Kostelec nad Černými lesy: Institute of Health Policy and Economics, 2004. Available at: <http://www.cizinci.cz/files/clanky/98/Prirucka_zdravotni_pece_2004.pdf>; Social Services Act. Available at: <<http://www.osobniasistence.cz/?tema=1&article=5&detail=1>>

⁷ **Recognised refugees, persons with subsidiary and temporary protection, holders of a long-term residence permit for the purpose of scientific research and persons in certain other situations are also deemed to be foreign nationals with permanent residence. Under certain conditions, a part of the healthcare is paid by the state even if the foreign national does not participate in public or private health insurance** (an international protection seeker, leave to remain, temporary protection, a foreign national serving a prison sentence/in detention). Štefko, M. – Koldinská, K. *Social Rights of Foreign Nationals*, C. H. Beck, Praha, 2013, s. 243-24; *Guide to the Healthcare System of the Czech Republic*. Kostelec nad Černými lesy: Institute of Health Policy and Economics, 2004. Available at: <http://www.cizinci.cz/files/clanky/98/Prirucka_zdravotni_pece_2004.pdf>, pg. 24

⁸ If the condition of a third country national requires immediate healthcare, he or she is **entitled to the necessary care to be provided by the nearest healthcare facility, regardless of the type of residence and without having to present the card of an insurance policy holder**. A non-insured person subsequently pays the costs from their own resources. (*Information Publication for Foreign Nationals*. Czech Republic, MoI CR, 2011)

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Social security pillar	Individual benefits and programmes in each pillar	Financing mechanism (contributory / non-contributory / mixed)	Accessibility of benefits for third country nationals
	attend to a close- relative on an all-day basis		
V. Old-age pensions and benefits	General old-age pension	Contributory	The type of residence has no effect on the benefit
	Deferred old-age pension	Contributory	The type of residence has no effect on the benefit
	Early old-age pension	Contributory	The type of residence has no effect on the benefit
VI. Survivors' benefits	Widow / widower pension	Contributory	The type of residence has no effect on the benefit
	Orphan pension	Contributory	The type of residence has no effect on the benefit
VII. Benefits in respect of accidents at work and occupational diseases (in the CR, these are not benefits but compensation for loss or damage)	Temporary incapacity to work	Contributory (contributions are paid by the employer)	The type of residence has no effect on the benefit
	Compensation after the end of incapacity to work	Contributory (contributions are paid by the employer)	The type of residence has no effect on the benefit
	Compensation for pain and increased difficulty of finding a job	Contributory (contributions are paid by the employer)	The type of residence has no effect on the benefit
	Compensation for material damages	Contributory (contributions are paid by the employer)	The type of residence has no effect on the benefit
	Compensation of "purpose-spent" costs associated with treatment	Contributory (contributions are paid by the employer)	The type of residence has no effect on the benefit
	Funeral benefit	Contributory (contributions are	The type of residence has no effect on the benefit

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Social security pillar	Individual benefits and programmes in each pillar	Financing mechanism (contributory / non-contributory / mixed)	Accessibility of benefits for third country nationals
		paid by the employer)	
VIII. Family benefits⁹	Parent benefit	Non-contributory	<ul style="list-style-type: none"> - permanent residence (MoLSA may, at administrative discretion, waive the condition of permanent residence in justified cases); - foreign nationals with permanent residence permit with recognised legal status of a long-term resident in the European Union in the territory of some other Member State and with long-term permit for residence in the territory of the Czech Republic according to the Act on the Residence of Foreign Nationals; - foreign nationals with long-term permit for residence in the territory of the Czech Republic for the purpose of scientific research according to the Act on the Residence of Foreign Nationals; - foreign nationals who have been granted subsidiary protection; - foreign nationals who have been granted long-term permit for residence in the territory of the Czech Republic for the purpose of employment requiring high level of qualifications according to the Act on the Residence of Foreign Nationals (Blue Card).
	Child benefit	Non-contributory	
	Birth benefit	Non-contributory	
	Funeral benefit	Non-contributory	
IX. Unemployment benefits	Unemployment benefit	Contributory	<ul style="list-style-type: none"> - permanent residence and residence regarded as permanent residence for employment purposes (for example, Section 53c of the Asylum Act); - long-term residence for the purpose of employment in a position requiring high level of qualifications (Blue Card); - family members of an EU citizen or a family member of a citizen of the CR with permanent or temporary residence; and if they do not have such residence, then the address of the place where they habitually reside in the territory of the CR.
	Retraining benefit	Contributory	
X. Guaranteed minimum resources	Special immediate assistance	Non-contributory	<ul style="list-style-type: none"> - permanent residence; - a person who has been granted asylum or subsidiary protection;

⁹ There are also foster care benefits, which, however, cannot be included directly among family benefits – see item XIII.

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Social security pillar	Individual benefits and programmes in each pillar	Financing mechanism (contributory / non-contributory / mixed)	Accessibility of benefits for third country nationals
	Subsistence benefit	Non-contributory	<ul style="list-style-type: none"> - foreign nationals who are holders of permanent residence permits with the recognised legal status of a long-term resident in the European Union in the territory of some other Member State and who were granted long-term permit for residence in the territory of the Czech Republic pursuant to the Act on the Residence of Foreign Nationals; - citizens of the signatory states of European Social Charter who are legally staying in the territory of the Czech Republic (are registered for residence according to the Act on the Residence of Foreign Nationals) are eligible for all types of benefits from the system for assistance in financial need.
	Housing benefit	Non-contributory	
XI. Long-term care benefits	Care benefit	Non-contributory	<ul style="list-style-type: none"> - permanent residence; - persons who has been granted asylum; - the family member of a citizen of an EU Member State, if he or she is registered for residence in the territory of the Czech Republic according to the special law for a period longer than 3 months; - foreign nationals who hold a permanent residence permit with the recognised legal status of a long-term resident in the European Union in the territory of some other Member State and who have been granted a permit for long-term residence in the territory of the Czech Republic according to the Act on the Residence of Foreign Nationals.
XII. Social Assistance Benefits for People with Disabilities	Mobility benefit	Non-contributory	<ul style="list-style-type: none"> - permanent residence; - a person who was granted asylum or subsidiary protection; - foreign nationals who are holders of permanent residence permits with the recognised legal status of a long-term resident in the European Union in the territory of some other Member State and who were granted a permit for long-term residence in the territory of the Czech Republic according to the Act on the Residence of Foreign Nationals.
	Special aids benefit	Non-contributory	

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Social security pillar	Individual benefits and programmes in each pillar	Financing mechanism (contributory / non-contributory / mixed)	Accessibility of benefits for third country nationals
XIII. Foster Child Benefits / Foster care benefits¹⁰	Contribution towards payment for child's needs	Non-contributory	<ul style="list-style-type: none"> - permanent or temporary residence in the territory of the Czech Republic pursuant to the Act on the Residence of Foreign nationals (MoLSA may, at administrative discretion, waive the condition of permanent residence in justified cases); - foreign nationals who are holders of permanent residence permits with the recognised legal status of a long-term resident in the European Union in the territory of some other Member State and who were granted permit for long-term residence in the territory of the Czech Republic according to the Act on the Residence of Foreign Nationals; - foreign nationals who have been granted asylum or asylum seekers, except for the persons accommodated in the asylum facility of the Ministry of the Interior; - foreign nationals who have been granted subsidiary protection according to the law or seekers of subsidiary protection, except for persons accommodated in a humanitarian centre (according to Act No. 221/2003 Coll. on the Temporary Protection of Foreign Nationals).
	Foster parent remuneration	Non-contributory	
	Benefit at reception of a child	Non-contributory	
	Contribution towards purchase of a motor vehicle	Non-contributory	
	Benefit at termination of foster care	Non-contributory	

¹⁰ See the note on family benefits in item VIII.

2.1.1 Overview of the Social Security System in the Czech Republic

Overview of the Social Security System in the Czech Republic; Description of Its Institutional Framework and Key Institutions, Their Terms of Reference and Coordination

The social security system in the Czech Republic includes the **health insurance system**, which is administrated by health insurance companies, and the **social insurance system** and the non-contributory **system of state social support benefits and social assistance benefits**, which are financed from the state budget.

The **social insurance system** includes **pension and sickness insurance** and **contribution to the governmental employment policy**. Technically, the category of social insurance also includes **pension savings scheme and supplementary pension savings scheme** and the obligation of an employer who employs more than one employee to take out **statutory liability insurance for loss or damage** that might be incurred by an employee as a result of an occupational injury, occupational disease or occupational fatality or in direct connection therewith.

Contributory Social Security System and Its Financing

The **healthcare system** is financed partly from contributions and partly from the state budget. Employees and self-employed persons, if they have permanent residence in the CR or work for an employer operating in the territory of the CR are obliged to pay **health insurance premium**. An employee pays one third of the insurance premium; the remaining two thirds are paid by the employer. The insurance premium is paid to the insurance company where the employee is insured.

Everyone who is resident in the CR is obliged to have health insurance. In the CR, there are two basic forms of health insurance – public and commercial. If a foreign national does not meet the conditions for participation in the public health insurance, they shall use **commercial health insurance**. Two types of this insurance are applicable to foreign nationals – insurance of necessary and urgent healthcare (“travel insurance”¹¹) and complete health insurance¹². The requirements for travel health insurance for a stay for up to 90 days¹³ (with a Schengen visa) are defined by the EU regulation known as the Visa Code.

The **social insurance system and unemployment benefits** are financed from contributions paid by employees and employers as well as by self-employed persons. For employees who work in the CR and meet other conditions defined by the law for participation in the sickness and pension insurance, their employers are obliged to pay insurance premiums for **pension insurance, sickness insurance and contribution to the governmental employment policy**.

Self-employed persons are obliged to pay an insurance premium for pension insurance and contribution to the governmental employment policy under the conditions defined by the law. Sickness insurance is optional for these persons.

Persons who do not perform **any gainful activity** (such as students, pensioners, housewives) are not obliged to pay insurance premium for health insurance, sickness insurance, pension insurance or the contribution to the governmental employment policy.

¹¹ Foreign nationals who applied for a long-term visa or a long-term residence permit with an embassy of the CR are obliged, for their stay in the CR, to take out commercial health insurance covering the costs of necessary and urgent health care, including the costs associated with transportation or, in the event of death, with transportation of bodily remains.

¹² In the case of application for a visa for more than 90 days, an application for extension of the duration of the stay in the country with this visa, an application for a long-term residence permit or for extension of a long-term residence permit, provided that such a permit is applied for while the applicant is staying in the country, it must follow from the document on the travel health insurance that the insurance was taken out in the scope of a complete healthcare with an insurance company licensed to provide this insurance in the territory of the CR. The complete health insurance needs to be paid throughout the period of the presumed stay.

¹³ This is not the subject of this study.

Non-contributory Social Security Benefits

The state social support and assistance benefits and social services are **non-contributory** social security benefits and are paid from the state budget.

The non-contributory state social support system is aimed primarily at families with children who are not able to handle their social situation with their own resources. **The social support system** consists mainly of **family benefits**.

Foster care benefits are intended for persons taking care of children who have been entrusted to foster care. Foster care benefits include a contribution towards payment for a child's needs, foster parent remuneration, benefit at reception of a child, a contribution towards the purchase of a motor vehicle and benefit at termination of foster care.

Persons with insufficient income can use the system of one-off and repeated benefits within **assistance in financial need**. The system of assistance in financial need includes **subsistence benefit, housing benefit and special immediate aid**.

Persons in an unfavourable social situation due to their state of health (this applies to persons dependent on the assistance of some other person) can use the **care benefit**. People with disabilities can apply for **benefits for people with disabilities**. This includes a mobility allowance and a contribution towards the purchase of a special aid (including a motor vehicle). This system also includes the special privileges cards (for example, a card issued to persons with severe disability).¹⁴

Institutional Framework of the Social Security System

The main public administration authority responsible for health care is the **CR Ministry of Health**. Public health insurance is provided by several insurance companies with special licenses. Commercial health insurance is also provided by several insurance companies to choose from.

Except for healthcare, the entire social security system is within the terms of reference of the **CR Ministry of Labour and Social Affairs**, which is responsible primarily for the legislative framework. Administrative activities in the area of social insurance are performed by **district social security administrations** and the **Czech Social Security Administration**, governed by MoLSA. MoLSA also governs the **General Directorate of the CR Employment Agency**, which supervises the regional branches of the CR Employment Agency and their contact offices.

Disbursement of all non-contributory social security benefits is administrated by the regional branches of the CR Employment Agency and their contact offices.

Long-term care partly belongs to the healthcare system, which is within the terms of reference of the Ministry of Health, and partly to the system of social services, for which the Ministry of Labour and Social Affairs is responsible.¹⁵

Social Security System in Legislation

Act No. 108/2006 Coll., on Social Services

Act No. 111/2006 Coll., on Assistance in Financial Need

Act No. 110/2006 Coll., on Living Wage and Subsistence Minimum

¹⁴ However, these cards cannot be included in the benefit system in the true sense of the word. Their holders are entitled to certain privileges (such as a discount on public transport fare) but not to receive welfare benefits.

¹⁵ *Social Security System in the Czech Republic*, MoLSA CR. Available at: <http://www.mpsv.cz/files/clanky/7175/ssz_cr_cz.pdf>; *Guide to the Healthcare System of the Czech Republic*. Kostelec nad Černými lesy: Institute of Healthcare Policy and Economics, 2004. Available at: <http://www.cizinci.cz/files/clanky/98/Prirucka_zdravotni_pece_2004.pdf>; *Your Rights in the Area of Social Security in the Czech Republic*, EC. Available at:

<http://ec.europa.eu/employment_social/empl_portal/SSRinEU/Your%20social%20security%20rights%20in%20Czech%20Republic_en.pdf>; *Information Publication for Foreign Nationals*. Czech Republic, MoI CR, 2011, pp. 47-50, 65-75; Štefko, M. – Koldinská, K. *Social Rights of Foreign Nationals*, C. H. Beck, Praha, 2013

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Act No. 117/1995 Coll., on State Social Support

Act No. 155/1995 Coll., on Pension Insurance

Act No. 187/2006 Coll., on Sickness Insurance

Act No. 20/1966 Coll., on Public Health

Act No. 329/2011 Coll., on Provision of Benefits for Persons with Disability and on Amendments to Related Acts

Act No. 359/1999 Coll., on the Social and Legal Protection of Children

Act No. 435/2004 Coll., on Employment

Act No. 48/1997 Coll., on Public Health Insurance

Act No. 582/1991 Coll., on Organisation and Implementation of Social Security

Act No. 589/1992 Coll. on Insurance Premium for Social Security and Contribution to the Governmental Employment Policy

2.1.2 Other Social Security Benefits

The social security benefits, which are not included in the national MISSOC guidelines, are stated in Table 1 in items XII and XIII.

These are the **benefits for persons with disability (XII)**, which include a mobility allowance and a contribution towards special aids; and **foster care benefits (XIII)**, which include foster parent remuneration and contributions towards payment for a child's needs, benefit at reception of child, contribution towards the purchase of a motor vehicle and benefit at termination of foster care.

Both types of benefits are non-contributory.

2.2 Conditions Governing Immigration (Integration) Measures and Social Security

An explicit connection between access to social security and the efforts of the CR to obtain highly qualified migrants exists only in the case of unemployment benefits.

A third country national who is a holder of a **Blue Card** has access to the registry of job candidates and, consequently, access to unemployment benefits (support during unemployment and possibly support in retraining), if he or she meets the other conditions for provision thereof.¹⁶

2.3 Planned Changes in Access to Social Security with Regard to TCNs

The conditions governing eligibility of third country nationals are largely linked to asylum and migration legislation (the type of residence and the like). Recently, **the eligibility conditions have not changed per se** (for example, the required duration of stay). If there was any change, it was always a change made as a result of a change in asylum and migration legislation; for instance a matter of merely technical changes to legislation. Thus, social legislation technically adapts to changes of the Act on the Residence of Foreign Nationals while access to benefits as such does not change. At present, the eligibility conditions are being adapted according to the planned amendment to the applicable legislation concerning residence of third country nationals.

For unemployment benefits, no changes are being made and none are planned for the foreseeable future.¹⁷

¹⁶ Information was provided by MoLSA CR.

¹⁷ Information was provided by MoLSA CR.

3. National Rules on Access to Social Security by Third Country Nationals

This chapter focuses on selected groups of social security benefits. These include healthcare benefits, sickness cash benefits, maternity benefits and paternity benefits, old-age pension and benefits, family benefits, unemployment benefits and minimum resources benefits.

3.1 Significance of the Minimum Duration of Stay for Access to Social Security Benefits

For the **public healthcare** and **insurance-based** social security benefits, the minimum duration of stay for the given type of residence permit **is irrelevant**.

For **non-insurance-based** social security benefits, it is possible for third country nationals to meet the **conditions for eligibility on the basis of the length of stay applied for** in the territory of the CR **only for state social support benefits** (family benefits). It is possible to claim family benefits, if the registered stay, pursuant to Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic and on Amendments to Some Acts (hereinafter referred to as the “Act on the Residence of Foreign Nationals”), is longer than 365 days, except for international protection seekers accommodated in the Ministry of the Interior accommodation centre.¹⁸

For other types of non-insurance-based benefit systems, the minimum duration of stay for the given type of residence permit is **irrelevant**.

Table 2: The Significance of the Minimum Duration of Stay for TCN for Access to Social Security Benefits¹⁹

Pillar	Type of benefit	Financing mechanism	Minimum duration of stay for the given type of residence permit
Healthcare	Public healthcare	Mixed	No
Sickness cash benefits	Sickness benefit	Contributory	No
	Care benefit	Contributory	
Maternity and paternity benefits	Financial aid in maternity	Contributory	No
	Compensatory benefit in pregnancy and maternity	Contributory	
Old-age pension and benefits	Standard old-age pension	Contributory	No
	Deferred old-age pension	Contributory	
	Early old-age pension	Contributory	
Family benefits	Parental benefit	Non-contributory	Longer than 365 days ²⁰
	Child benefit	Non-contributory	
	Birth benefit	Non-contributory	
	Funeral benefit	Non-contributory	
Unemployment benefits	Unemployment benefit	Contributory	No
	Retraining benefit	Contributory	
Guaranteed minimum resources benefits	Special immediate assistance	Non-contributory	No
	Subsistence benefit	Non-contributory	
	Housing benefit	Non-contributory	No

¹⁸ Registration of residence is mandatory for TCNs after they arrive to the CR. TCNs are to register their presence in the territory of the CR with the relevant department of the Foreign Police according to their place of residence in the CR within 3 working days from the date of their entry into the territory of the CR. The obligation to register the place of residence with the police does not apply to those foreign nationals who fulfilled this obligation with the provider of accommodation. The registration obligation also does not apply to persons younger than 15 years, to a member of staff of an embassy of a foreign country or an international governmental organisation accredited in the CR, their family member registered by the Ministry of Foreign Affairs or a foreign national who has been provided with accommodation by the Ministry of the Interior. Arrival in the CR, Obligations and the Duration of Stay, MoI CR. Available at: <<http://www.mvcr.cz/clanek/prijezd-do-cr-povinnosti-a-delka-pobytu.aspx>>

¹⁹ The information was provided by MoLSA CR; *Guide to the Healthcare System of the Czech Republic*. Kostelec nad Černými lesy: Institute of Healthcare Policy and Economics, 2004. Available at: <http://www.cizinci.cz/files/clanky/98/Prirucka_zdravotni_pece_2004.pdf>

²⁰ Registered stay in the CR longer than 365 days

3.2 Exportability of Selected Benefits to the Country of Origin

Healthcare cannot be transferred to the country of origin after the return of a foreign national. Participation in the public health insurance terminates upon termination of permanent residence in the territory of the CR is terminated; for persons without permanent residence, it terminates upon termination of their employment.

With insurance-based benefits, exportability to the country of origin, if a foreign national returns there, is possible and the type of residence is irrelevant. The benefit will be paid abroad at the request of the insured person only to the insured person's account, with the costs of such payment being paid by the insured person (Section 111 of Act No. 187/2006 Coll., on Sickness Insurance).

With non-insurance-based benefit systems and with unemployment benefits, exportability to the country of origin after the return of a foreign national is not possible because besides the conditions related to the stay, there also exists a condition concerning the place of residence, and in this context, the place of residence means the habitual (actual) place of residence of the claimant, which is not always identical with the permanent place of residence. It is the place where the claimant's centre of interest lies.²¹

Table 3: Exportability of Selected Benefits to the Country of Origin²²

Pillar	Type of benefit	Financing mechanism	Exportability to the country of origin for the given type of stay	
Healthcare	Public healthcare	Mixed	No	
Sickness benefits	cash	Sickness benefit	Yes	
		Care benefit		
Maternity and paternity benefits		Financial aid in maternity		
		Compensatory benefit in pregnancy and maternity		
Old-age pension and benefits		Standard old-age pension		
		Deferred old-age pension		
		Early old-age pension		
Family benefits		Parental benefit		No
		Child benefit		
		Birth benefit		
		Funeral benefit		
Unemployment benefits		Unemployment benefit	No	
		Retraining benefit		
Guaranteed minimum resources benefits		Special immediate assistance	No	
		Subsistence benefit		
		Housing benefit		

²¹ The information was provided by MoLSA CR; *Guide to the Healthcare System of the Czech Republic*. Kostelec nad Černými lesy: Institute of Healthcare Policy and Economics, 2004. Available at: <http://www.cizinci.cz/files/clanky/98/Prirucka_zdravotni_pece_2004.pdf>, p. 20

²² The information was provided by MoLSA CR; *Guide to the Healthcare System of the Czech Republic*. Kostelec nad Černými lesy: Institute of Healthcare Policy and Economics, 2004. Available at: <http://www.cizinci.cz/files/clanky/98/Prirucka_zdravotni_pece_2004.pdf>

3.3 The Significance of the Minimum Period of Employment / Payment of Contributions for Access to Social Security Benefits

The requirements concerning the minimum period of employment or payment of contributions are identical for third country nationals and the citizens of the CR for all types of social security benefits.

Eligibility for charge-free healthcare is contingent on participation in public or private health insurance.

Eligibility for **sickness cash benefits** (sickness and care benefits) and for **compensatory benefit in pregnancy and maternity** is contingent on participation in sickness insurance. An insured person is eligible for **financial assistance in maternity**, if she has been paying sickness insurance contributions for a minimum period of 270 calendar days during the two years preceding the claim for financial assistance in maternity. In addition to that, self-employed persons must have been registered for self-employed persons' sickness insurance for a minimum of 180 calendar days during the year preceding the claim for financial assistance in maternity.

Eligibility for old-age pension and sickness insurance benefits is established on satisfaction of a fairly complex procedure. The Czech Social Security Administration in Prague makes decisions on eligibility for pension, its amount and disbursement pursuant to valid legislation, in particular pursuant to the Pension Insurance Act. For an employee, a condition for participation in pension insurance is participation in sickness insurance. Thus, commencement of participation in both types of insurance must correspond with each other. Participation in pension insurance is also mandatory for self-employed persons if their self-employed gainful activity is their main gainful activity. For eligibility for an old-age pension, two conditions defined by the law must be met, specifically the condition of achieving the period of insurance specified by the law and the condition of reaching the age specified by the law.

An insured person is eligible for standard general old-age pension under the following conditions:

- the period of insurance reached a minimum of 25 years and the insured person concurrently reached the retirement age before the year 2010; or the period of insurance reached a minimum of 15 years and the insured person reached at least the age of 65 years before the year 2010;
- from 01/01/2010, the required period of insurance was extended by 1 year per year (the target number is 35 years, including substitute (non-contributory) periods of insurance) or 30 years not including substitute periods of insurance;
- from 01/01/2010, the required period of insurance is also extended from 15 to 20 years in the case of shorter period of insurance;
- it is possible to receive the standard old-age pension and to perform a gainful activity at the same time.

A person becomes eligible for **unemployment benefit** if the applicant has participated in basic pension insurance, based on their employment, other gainful activity or substitute period of employment (for example, while taking care of a child) for a minimum period of 12 months during two years preceding before inclusion in the register of job seekers.

Eligibility for **retraining benefit** is not contingent on any minimum period of pension insurance or employment or any other gainful activity.

With **non-insurance-based** systems, participation in social security insurance is of course not examined.²³

If this condition does not exist, the 3rd and 4th columns state NO; if they state YES, the minimum period of employment / payment of contributions is stated.

²³ The information was provided by MoLSA CR; *Guide to the Healthcare System of the Czech Republic*. Kostelec nad Černými lesy: Institute of Healthcare Policy and Economics, 2004. Available at: <http://www.cizinci.cz/files/clanky/98/Prirucka_zdravotni_pece_2004.pdf>; *Information Publication for Foreign Nationals*. Czech Republic, MoI CR, 2011

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Table 4: The Significance of the Minimum Period of Employment for TCN Access to Social Security Benefits ²⁴

Pillar	Type of benefit	Financing mechanism	Minimum period of employment / payment of contributions for TCNs	Minimum period of employment / payment of contributions for citizens of the CR
Healthcare	Public healthcare	Mixed	No	
Sickness benefits	Sickness benefit	Contributory	No	
	Care benefit	Contributory		
Maternity and paternity benefits	Financial aid in maternity	Contributory	Employees have paid sickness insurance contributions for a minimum period of 270 calendar days during the two years preceding the claim for financial assistance in maternity; in addition to that, self-employed persons must be registered for sickness insurance of self-employed persons for a minimum period of 180 calendar days in the year preceding the claim for financial assistance in maternity.	
	Compensatory benefit in pregnancy and maternity	Contributory	No	
Old-age pension and benefits	Standard old-age pension	Contributory	The legislation governing eligibility is very complex and it is described on the MoLSA website. ²⁵	
	Deferred old-age pension	Contributory		
	Early old-age pension	Contributory		
Family benefits	Parental benefit	Non-contributory	No	
	Child benefit	Non-contributory		
	Birth benefit	Non-contributory		
	Funeral benefit	Non-contributory		
Unemployment benefits	Unemployment benefit	Contributory	Pension insurance based on employment, other gainful activity or substitute period of employment with duration of at least 12 months in the 2 years preceding inclusion in the register of job seekers.	
	Retraining benefit	Contributory	No	
Guaranteed minimum resources benefits	Special immediate assistance	Non-contributory	No	
	Subsistence benefit	Non-contributory		
	Housing benefit	Non-contributory		

3.4 The Significance of Certain Migration Policy Measures for Access to Social Security Benefits

TCN access to social security benefits **is not linked** to any specific migration policy measures (such as mandatory participation in an integration course) and it is governed by the conditions relating to a certain type of stay as shown in Table 1 (page 10).

²⁴ The information was provided by MoLSA CR; *Guide to the Healthcare System of the Czech Republic*. Kostelec nad Černými lesy: Institute of Healthcare Policy and Economics, 2004. Available at: <http://www.cizinci.cz/files/clanky/98/Prirucka_zdravotni_pece_2004.pdf>

²⁵ MoLSA. Available at: www.mpsv.cz → pension insurance.

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If a foreign national is not eligible for public health insurance, then the condition for obtaining a residence permit is to take out commercial health insurance.

3.5 The Significance of Criteria Defined Exclusively for TCN Access to Social Security Benefits

TCN access to **insurance-based and non-insurance-based** social security benefits **is usually not contingent** on other criteria defined exclusively for foreign nationals (such as age, minimum funds for subsistence) and it is governed by conditions relating to a certain type of stay as shown in Table 1 (page 10).

With **family benefits**, however, in addition to the persons stated in Table 1, the group of eligible persons also includes foreign nationals aged less than one year, born in the territory of the Czech Republic and registered for residence in the territory of the CR pursuant to the Act on the Residence of Foreign Nationals, except for international protection seekers accommodated in an accommodation centre of the Ministry of the Interior, and also includes minor foreign nationals entrusted to care substituting parental care or to institutional care in the territory of the CR.

Minor foreign nationals entrusted to care substituting parental care in the territory of the Czech Republic are also eligible for **foster care benefits**.²⁶

4. Administrative Practices

4.1 Criteria for Access to Social Security; Administrative Discretion

MoLSA may, at administrative discretion, waive the condition of permanent residence for family benefits and foster care benefits in justified cases.

Another example of administrative discretion is granting special immediate assistance benefits. The Act on Assistance in Financial Need defines the situations where it is possible to provide special assistance benefits and which go beyond the situations defined in Table 1. It applies that special immediate assistance is provided to persons who meet the eligibility conditions for the purposes of subsistence benefit and housing benefit (see Table 1 – page 10). However, if special immediate assistance is provided due risk of serious harm to health or if it is provided for the purpose of payment of a one-off expense (such as a travel fare, lodging and the like), it can also be awarded, at administrative discretion of the relevant authority responsible for assistance in financial need, to a person who otherwise does not meet the eligibility conditions.²⁷

Due to the fact that this is a case of administrative discretion, the reasons are not listed specifically in the law. In general, it can be said that each case is examined comprehensively and on an individual basis, taking into account the overall social/financial situation of the given person. The social and legal protection of a child, etc., also plays its role in this.

4.2 Written Instructions / Professional Training for Officials

Each case is examined comprehensively and on an individual basis.

Most recently, general rules were presented to relevant experts on a workshop organized by EURES and titled Profile of Migrating Workers and Their Family Members.²⁸

4.3 Impact of an Application from TCN for Social Security Benefits on Renewal of Residence Permit and Grant of Citizenship

The existing legislation does not explicitly mention reception of social security benefits as a reason for rejecting an application for **renewal of the validity of a long-term residence permit**. The prerequisite for renewal of a long-term residence permit is generally the presentation of evidence on resources for the stay, the primary purpose of which is to prove that the foreign national is economically self-supporting. However, with ordinary long-term residence, the administrative authority does not know whether the income documented by a foreign national in the form of an account statement comes from social security benefits.

²⁶ The information was provided by MoLSA CR.

²⁷ The information was provided by MoLSA CR.

²⁸ The workshop took place on 7 October 2013.

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Conversely, in the case of **long-term residence for the purpose of family reunification in the territory of the CR, long-term residence for the purpose of business, long-term residence of a resident of some other EU Member State and of permanent residence**, a foreign national is required to document what is referred to as the aggregate monthly income of the foreign national and the persons examined together with the foreign national (i.e. the regular income of the whole family). *Income eligible according to the Act on Living Wage and Subsistence Minimum, excluding one-off income, child benefit, unemployment support, retraining benefit and benefits from the assistance in financial need system*, is considered to be income.²⁹ On the other hand, parental benefit counts as income.

It follows from the above that if a foreign national receives a level of income from the above-mentioned social security benefits which do not constitute eligible income, then the relevant type of stay or its renewal may not be accessible to them because they do not reach the sufficient amount of income. For long-term residence for the purpose of family reunification in the territory of the CR, failure to reach the sufficient level of income is also an explicit reason for terminating the residence permit.³⁰ Similar implications can be derived in the case of long-term residence for the business purposes or long-term residence of a resident of some other EU Member State because a foreign national who does not meet the condition of sufficient income, no longer meets the conditions for granting such residence status.³¹

According to the existing legislation governing the procedures of acquiring and losing the citizenship of the CR (Act No. 40/1993 Coll.), receiving social security benefits has no impact on the **granting of citizenship**. However, on 01/01/2014, a new Citizenship Act will become effective (No. 186/2013 Coll.), which explicitly provides, as one of the conditions for grant of the citizenship of the Czech Republic³², that the citizenship of the Czech Republic can be granted to an applicant *who proves that their stay in the territory of the Czech Republic during the three years preceding the date on which the application was filed did not burden the state social support system or the system for assistance in financial need significantly and without serious reasons. A significant burden on the state social support system or the system for assistance in financial need means a situation, in which the applicant is predominantly dependent on the benefits provided from the state social support system or the system for assistance in financial need, unless the applicant is a person who is excluded from performance of a gainful activity due to their state of health or unless the applicant is preparing for their future profession or is on maternal or parental leave or is taking constant care of some other person who is dependent on such care*. The Ministry of the Interior will be able to waive this condition for persons worthy of special consideration, which is particularly the fact that an applicant is a stateless person or that international protection has been granted to the applicant in the territory of the Czech Republic in the form of asylum or subsidiary protection.

The explicit rules providing for the possibility to examine whether the stay of an applicant in the Czech Republic, if he or she is a person of an age at which full economic activity or full capacity to work can be reasonably expected, is substantially paid from the social security system of the Czech Republic are based on Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents.

According to this Directive, the residents in the territory of a Member State should prove that they have adequate incomes and health insurance in order not to be a burden for the Member State. When examining the stability and regularity of the income, the Member States may take into account not only such factors as national insurance contributions to the pension system and fulfilment of tax obligations but also reasons behind drawing on welfare benefits from the solidarity social security systems.

The methodology determining how the Ministry will proceed in given cases has not yet been prepared; however, this type of cases will be examined sensitively with regard to specific individual merits of the case and with regard to compliance with other conditions defined by the law for granting citizenship of the Czech Republic.

²⁹ See Section 42b(1)(d), Section 42c(3)(c), Section 46(7)(b) and Section 71(1) of Act No. 326/1999 Coll., on the Residence of Foreign Nationals.

³⁰ See Section 46a(2)(e) of the Act on the Residence of Foreign Nationals.

³¹ See Section 46(1) in conjunction with Section 37(2)(b) in the context of Section 46(7)(b) of the Act on the Residence of Foreign National, or Section 46(1) in conjunction with Section 37(2)(b) in the context of Section 42c(3)(c) of the Act on the Residence of Foreign Nationals.

³² The provision of Section 14(8).

4.4 Translation and Interpretation Services or Some Other Form of Support for TCNs

Translation and interpretation services or some other form of support for third-country nationals in their access to social security are provided mainly by non-profit organisations working with migrants in the territory of the Czech Republic. Some of them also cooperate with the CR Ministry of the Interior.

In the community centres in Prague and Rakovice in the Region of South Bohemia, **InBáze Berkat, o.s.** provides foreign nationals with services. This organisation offers work-related, legal, social and psychological counselling. As part of the counselling services, InBáze provides assistance in obtaining state social support benefits, assistance in financial need or social insurance, in addressing problems with housing, in obtaining health insurance, in mediating contact with central and local government authorities, etc.³³

In the territory of Prague and the Region of Central Bohemia, **Association for Integration and Migration (SIMI)** provides social and legal counselling. The social department of SIMI states that questions concerning social security are some of those most frequently asked. Specifically, the parental benefit and housing contribution as well as care contribution and benefits in financial need are the focus of interest. SIMI also provides translation and interpretation services (for example, in communication with the authorities) through their volunteers.³⁴

Legal, social and work-related counselling and interpretation is also offered by the **Organisation for Assistance to Refugees (OPU)** or **META o.s. – Association for Opportunities of Young Migrants**. Both organisations provide their services not only within the capital city of Prague but also in all regions of the CR.

OPU, just as the other organisations mentioned, commonly provides social counselling where it helps foreign nationals to access the social security system or the benefits in financial need (information, accompanying the foreign nationals, filling in forms). Most frequently, it provides its clients with assistance with applications for a child benefit and housing benefit. Foreign nationals show great interest in these services.

OPU states that translation and interpretation services for third-country nationals are dependent on the existence of a project can allow for payment of such services. At present, OPU can pay the interpreters used in this way only under other projects.

At present, Meta has a programme concentrating specifically on the provision of interpretation services. This involves interpreters referred to as community interpreters who speak Czech fluently and interpret from/into their mother tongue or into some other foreign language, which they know very well. Besides standard interpreting, the task of community interpreters is also to help those who, in addition to their lack of knowledge of the Czech language, are not sufficiently familiar with the Czech environment. The services of community interpreters are intended particularly for dealings with the authorities, the police, social security and healthcare facilities or educational institutions.³⁵

A number of other organisations also provide foreign nationals (not only) from third countries with assistance. Such organisations include, for example, People in Need (represented in all the regions of the CR), Most pro lidská práva, o.s. (Bridge for Human Rights) (town of Pardubice), Evropská kontaktní skupina, o.s. (EKS) (European Contact Group), Poradna pro integraci (PPI) (Counselling Centre for Integration), Centrum pro integraci cizinců, o.s. (CIC) (Centre for Integration of Foreigners).

More information is available on the website of Konsorcium nevládních organizací pracujících s migranty v ČR, o.s. (Consortium of Non-governmental Organisations Working with Migrants in the CR).³⁶

³³ InBáze Berkat. Available at: <http://inbaze.cz/index.php?option=com_content&view=article&id=97&Itemid=101>

³⁴ The information was provided by SIMI; Association for Integration and Migration. Available at: <<http://www.migrace.com/>>

³⁵ The information was provided by OPU; Organisation for Assistance to Refugees. Available at: <<http://www.opu.cz/cz/cobabizime/>>

³⁶ Consortium of Non-governmental Organisations Working with Migrants in the CR. Available at: <<http://www.konsorciumnno.cz/o-nas.html>>

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5. External Dimension of Social Security

5.1 List of Bilateral Treaties on Social Security Between the CR and Third Countries³⁷

The table shown below provides a complete overview of the treaties on social security entered into between the CR and third countries, including the date of signing and ratification of the agreements. The social security branches governed by the individual treaties are highlighted.

Table 5: List of third countries with which the CR has entered into a bilateral agreement concerning exclusively social security³⁸

Bilateral Treaties on Social Security – Status as at 08/19/2013											
State	Date of signing	Effective date	Collection of laws (Collection of Intern. Treaties)	Benefits in sickness and maternity		Pensions	Benefits in occupational injuries and occupational diseases		Unemployment benefits	Family benefits	Funeral benefit
				Healthcare	Financial benefits		Healthcare	Financial benefits			
Australia	09/16/2009	07/01/2011	58/2011								
Bosnia and Herzegovina ²	05/22/1957	12/01/1957	3/1958								
Montenegro	01/17/2002	12/01/2002	130/2002								
Chile	12/07/2000	03/01/2004	23/2004	1							
India	06/08/2010										
Israel	07/16/2000	07/01/2002	73/2002	3			4				
Japan	02/21/2008	06/01/2009	42/2009								

³⁷ Bilateral treaties on social security, MoLSA CR. Available at: <<http://www.mpsv.cz/cs/1275>>

³⁸ Ibid

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Canada	05/24/2001	01/01/2003	1/2003								
South Korea	12/14/2007	11/01/2008	80/2008								
Macedonia	10/07/2005	01/01/2007	2/2007								
Moldova	11/29/2011	10/01/2012									
Québec	02/19/2002	11/01/2003	124/2003								
Russia	12/08/2011										
Serbia	01/17/2002	12/01/2002	130/2002								
Syria	03/25/2010				5						
Turkey	10/02/2003	01/01/2005	135/2004								
Ukraine	07/04/2001	04/01/2003	29/2003								
USA	09/07/2007	01/01/2009	85/2008								

	The treaty only applies to the citizens of the CR and the other signatory state
	Universal scope – the treaty applies to all persons who are subject to the laws of the CR and the other signatory state
	Ratification of the treaty is underway

1) this only covers the healthcare provided for pensioners	3) this only covers healthcare in the event of unexpected births
2) this is a treaty entered into between the Czechoslovak Republic and the Federal People's Republic of Yugoslavia	4) this only covers urgent healthcare
	5) financial benefits only in the event of an occupational injury and an occupational disease

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Treaties Concerning Healthcare³⁹

The CR is also a party to bilateral agreements containing arrangement of free provision of healthcare. Under these treaties, third-country nationals may be treated even beyond the framework of the public health insurance on the basis of a presented travel document proving their citizenship. In this case, the provided healthcare is paid by the CR Ministry of Health. These agreements mostly concern necessary and urgent healthcare in the territory of the CR. At present, the CR has effective agreements on the provision of free healthcare with Yemen and Cuba.

Recently, some agreements on free healthcare in the event of acute illness or injury expired, specifically the agreement between the CR and Afghanistan (in 2010), the agreement between the CR and Libya (in 2011) and a similar agreement between the CR and Morocco (in 2012). Based on the government resolution dated 6 June 2012, the agreement with Yemen was unilaterally terminated. The validity of the agreement will expire on 21 April 2015.

Generally, it can be said that after the establishment of the CR, the trend is to terminate reciprocal obligations of free healthcare defined in treaties.⁴⁰

Besides these treaties, provisions on the provision of healthcare are also contained in bilateral agreements on social security (see Table 5 – page 25). It generally applies that these treaties, too, restrict free treatment to necessary and urgent care.⁴¹

³⁹ Štefko, M. – Koldinská, K. *Social Rights of Foreign Nationals*, C. H. Beck, Prague, 2013, s. 72

⁴⁰ The information provided by MoLSA CR.

⁴¹ *Information Publication for Foreign Nationals. Czech Republic*, MoI CR, 2011, page 50; List of Valid International Bilateral Treaties within the Terms of Reference of the CR Ministry of Health, MoH CR. Available at: <http://www.mzcr.cz/Unie/obsah/mezinarodni-bilateralni-smlouvy_2580_8.html>

5.2 Summary of Provisions Concerning Selected Clauses of Bilateral Treaties⁴²

i) **Provisions, which permit an employee from a third country to work in the CR while being subject to the legislation of their home country (in the area of social security):**

Such provisions are a part of **all** the stated treaties concerning social security. In all cases, they apply to **employees** – they only differ in the requirement of the number of years spent at work. The treaties with Australia, India, Japan, South Korea, Canada and Québec permit an employee to be subject to the legislation of their home country for up to five years of their stay in the CR; the treaties with Monte Negro, Chile, Macedonia, Moldova, Russia and Serbia limit this period to two years and the treaty with Israel limits this period to three years. In the treaties with Japan, South Korea and Moldova, these provisions also apply to **self-employed persons**.

Table 6: Provisions on foreign nationals being subject to the legislation of their home country⁴³

Agreement with the country	Summary of the provisions
Australia	Employees – 5 years
Bosnia and Herzegovina	Employees ⁴⁴
Monte Negro	Employees – 2 years
Chile	Employees – 2 years
India (ratification is under way)	Employees – 5 years
Israel	Employees – 3 years
Japan	Employees – 5 years, self-employed persons – 5 years
South Korea	Employees – 5 years, self-employed persons – 5 years
Canada	Employees – 5 years
Macedonia	Employees – 2 years
Moldova	Employees – 2 years, self-employed persons – 2 years
Québec	Employees – 5 years
Russia (ratification is under way)	Employees – 2 years
Serbia	Employees – 2 years

ii) **Provisions, which guarantee equal access to benefits in the system of the host country:**

All bilateral treaties on social security contain the principle of equality of treatment, which is applied according to the technical and personal scope of the given treaty. The overview of personal and technical scopes of the treaties is shown in Table 5 - page 25.

iii) **Provisions, which allow for transfer of social security benefits to the home country:**

The general principle of disbursement of financial benefits in the territory of the other signatory state is laid down in all bilateral treaties. Basically, the financial benefits covered by the technical scope of the given treaty can be exported to the territory of the other signatory state. For details, see the individual treaties and their technical scopes in Table 5 - page 25.

As concerns Czech pensions, these are paid to any foreign country (i.e. to any country around the world, regardless of the existence or absence of a treaty) – this principle is laid down directly in a national rule of law (Act No. 155/1995 Coll., on Pension Insurance).

iv) **Other provisions relevant to the coordination of the social security system:**

Not applicable.

⁴² See Detailed List of Treaties, MoLSA CR. Available at: <<http://www.mpsv.cz/cs/1304>>

⁴³ The information was provided by MoLSA CR.

⁴⁴ In relation to Bosnia and Herzegovina, the old treaty with Yugoslavia from the year 1957 where there is no limit on the time for which employees are seconded is now applied.

5.3 Extent to Which the Rights Defined in Bilateral Treaties Are Invoked

The CR does not have any statistics on the extent to which third country nationals exercise their rights laid down in the bilateral agreements mentioned above (the number of persons, the amount of money, specific experience of state institutions). Databases usually register international cases without distinguishing which coordination instrument is applied (i.e. whether EU regulation – Regulation 883/2004 – or bilateral treaties). The cases are also not differentiated according to the citizenship of the persons concerned. Thus, the citizens of the CR or the EU and third country nationals are lumped together in the statistics.

Estimating by the number of pensions paid to countries with which the CR has a bilateral treaty on social security, it can be deduced that approximately a total of 11,000 pensions (which, however, also include pensions of Czech citizens) could have been awarded under the bilateral treaties.⁴⁵

⁴⁵ The information was provided by MoLSA CR.

6. Case Studies

Case study 1:

Tho and Lien, a married couple holding Vietnamese citizenship, aged 28 and 30, moved to your (Member) State 10 years ago. They hold long-term residence permits. Tho has worked in a car manufacturing company for the last 8 years, paying obligatory insurance contributions throughout this time. Lien has worked as a chef in the restaurant of a large hotel, also paying obligatory insurance contributions, for the last 2 years. Tho and Lien are expecting the birth of their first child in 6 weeks' time. Last week, the car manufacturing company where Tho works announced that they were making him redundant. Faced with the loss of Tho's income at a time when Lien would need to take time off work, following the birth of their child, Tho decided to apply for unemployment benefits while Lien applied for maternity benefits.

According to the valid legislation of the CR, Tho is not eligible for unemployment benefit or retraining benefit because these benefits are only provided for job seekers. However, Tho does not meet the residence requirement for being granted the status of a job seeker because he is not a holder of a permit for permanent residence in the territory of the Czech Republic.

From among maternity benefits, Lien is eligible for financial assistance in maternity if she files an application through her employer or her former employer. If a woman is eligible for financial assistance in maternity, she no longer has any reason to apply for compensatory benefit in pregnancy and maternity – Lien is therefore not eligible for this benefit.

Case study 2:

Jasmine is a single parent, aged 29, holding Filipino citizenship, who moved to your (Member) State 2 and a half years ago. She has a 2-year old child (also holding Filipino citizenship) that lives with her and another child aged five that lives in the Philippines with Jasmine's mother. She holds a temporary/salaried worker residence permit that has been renewed once. Jasmine has worked as a nurse in a residential day-care unit in your (Member) State for 2 and a half years. She sends a small amount of money every month to the Philippines to help support her daughter. Last month, Jasmine's employer announced significant cuts in staff salaries in response to budget reductions. Faced with a significantly reduced income, Jasmine has moved into a hostel as she can no longer afford to rent private accommodation. She has also been forced to halve the amount of money she sends to her family in the Philippines every month. She has decided to apply for family benefits and guaranteed minimum resources.

According to valid legislation, Jasmine is eligible for parental benefit and child benefit, which fall into the category of family benefits. Jasmine is eligible for the benefits because she has had registered residence in the territory of the Czech Republic pursuant to the Act on the Residence of Foreign Nationals for a period longer than 365 days (in the case of child benefit, this shall apply on condition that the child who lives with their mother in the territory of the CR has also satisfied the condition of having registered residence for a period longer than 365 days, pursuant to the Act on the Residence of Foreign nationals; this shall also apply on the condition that the child who remains in the Philippines is excluded from the group of persons assessed together for the purposes of child benefit). Jasmine is not eligible for guaranteed minimum resources benefit. Under certain circumstances, as defined in Table 1, it would be possible to provide Jasmine only with special immediate assistance. Valid legislation provides that special immediate assistance is given to persons who meet the eligibility conditions for the purpose of subsistence benefit and housing benefit. However, if the special immediate assistance is given because of risk of a serious harm to health or if it is provided for the purpose of payment of a one-off expense (such as a travel fare, lodging, etc.), it may also be awarded to a person who does not otherwise meet the eligibility conditions at the administrative discretion of the relevant authority responsible for assistance in financial need,.

Case study 3:

Senghor is a high-skilled worker from Senegal. He arrived in your (Member) State six years ago with a temporary residence permit arranged through the IT company that employed him. Senghor is single and does not have children, but has recently succeeded in bringing his elderly mother to the country on the basis of family reunification. Aged 80, his mother is entirely dependent on Senghor's income. Last week, Senghor suffered an accident at work that left him

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incapable of carrying out the work for which he was employed for a period of 3 years. He decided to apply for invalidity benefits, sickness benefits, family benefits and benefits in respect of accidents at work and occupational diseases.

In his present situation, Senghor is eligible for sickness benefit according to the valid legislation of the CR if the attending physician issues a temporary incapacity to work certificate and if Senghor participates in sickness insurance. He is only eligible for a disability pension if the disability arose due to an occupational injury or an occupational disease. Otherwise he will become eligible for a disability pension only if the required period of insurance condition is met.⁴⁶ As concerns compensation for loss or damage incurred due to occupational injuries and occupational diseases, any employee who is employed pursuant to the Labour Code is eligible for such compensation.

⁴⁶ The information was provided by MoLSA CR. For calculation of the required period of insurance, see Disability Pensions, MoLSA CR. Available at: <<http://www.mpsv.cz/cs/619>>

7. Statistics Concerning Payments of Social Security with Regard to Migration

Up until now, TCNs have accounted for a very small proportion of those drawing on social security benefits and their share in the total number of benefits only represented 0.6 % in 2009 (10,775 benefits), while they constitute approximately 2.7 %⁴⁷ of the population of the CR (at the end of the third quarter of 2012, there were 279,961 TCNs staying in the territory of the CR, of whom more than one half resided permanently in this country). However, in recent years, there was an upward trend (between the years 2007 and 2009, the number of benefits paid to TCNs increased by one third and the amount of disbursed money increased nearly by one half).⁴⁸

Number of Social Security Benefits Paid for the Year 2012

Table 7: The number of benefits paid to TCNs from the state social support system for the year 2012⁴⁹

Type of benefit	Period	Number of disbursed benefits
Child benefit	Average/month	3,928
Parental benefit	Average/month	6,966
Housing contribution	Average/month	877
Birth benefit	Total/year	376
Funeral benefit	Total/year	11

⁴⁷ However, the difference in age structures between TCNs and the citizens of the CR, which play a role in claiming social security benefits, must also be taken into account.

⁴⁸ Government Resolution No. 99 of 9 February 2011 on the Updated Concept of Integration of Foreign Nationals – Co-existence. Available at: <<http://www.cizinci.cz/files/clanky/741/uv-09022011.pdf>>, page 10

⁴⁹ The information was provided by MoLSA.

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7.1 Data on Employed Persons by Citizenship

Table 8: Data on employed TCNs by citizenship⁵⁰

	2007	2008	2009	2010	2011	2012
Foreign nationals (TCNs) registered with governmental employment agencies	95 648	143 634	91 589	71 595	63 535	NA
Foreign nationals (TCNs) with a valid trade license	53 978	61 235	70 731	72 507	73 145	NA
Employed foreign nationals (TCNs) – total	149 626	204 869	162 320	144 102	136 680	NA
Employed TCNs by their citizenships – top 5						
Ukraine	83 519	102 285	83 701	71 878	68 950	NA
Vietnam	29 862	48 393	39 260	36 296	32 145	NA
Russia	3 716	4 576	4 948	5 097	5 644	NA
Moldova	6 433	9 748	7 265	5 257	4 228	NA
Mongolia	7 057	13 157	4 493	3 865	3 116	NA

⁵⁰ *Foreign Nationals in the Czech Republic*, Czech Statistical Office, 2012

8. Key Findings

The purpose of the present study was to map the social security and healthcare systems in the Czech Republic with regard to third country nationals.

After a theoretical introduction, the structure of the whole system, including key institutions and their powers, was presented. The following parts of the study covered the specific aspects of the social security system with regard to TCNs.

It has been found that, in most cases, access to non-contributory social security benefits depends on a certain type of residence (particularly permanent residence and residence based on international protection or residence of persons with recognised status of a long-term resident in the European Union, residence for the purpose of scientific research or a Blue Card). Exceptions to this are some disability benefits where the type of residence does not play any role. It can be said that permanent residence entitles an application to all types of non-contributory benefits.

Eligibility for contributory benefits is more dependent on the period of payment of contributions rather than on the type of residence and the eligibility for this type of benefits is not different for TCNs and the citizens of the CR. An exception to this is unemployment benefit where permanent residence, a Blue Card or permanent or temporary residence of a family member of a citizen of an EU Member State is required.

Thus, the eligibility conditions applicable to TCNs are largely linked to the type of residence. Recently, there is the tendency that if changes are made in the social security system, welfare laws are technically adjusted to the changes in the Act on the Residence of Foreign Nationals but the access to benefits as such does not change.

The link between social security and specific immigration or integration measures is limited. This applies, for example, to a TCN who is a Blue Card holder and as a result has access to the register of job seekers and consequently can receive unemployment benefits.

Besides the type of residence, the eligibility conditions can also be impacted by the period for which a person is registered in the territory of the CR. According to the valid laws, this impacts the access to state social support benefits (family benefits).

Besides the measures defined by the legislation, MoLSA also has some responsibility for examining the eligibility for social security benefits. The officials of the MoLSA may, at administrative discretion, waive the condition of permanent residence for family benefits and foster care benefits in warranted cases. Another example of administrative discretion is awarding special immediate assistance benefits.

Exportability of benefits to the country of origin after the return of a foreign national is possible with insurance-based benefit systems and the type of residence does not play any role in this respect. With healthcare, non-insurance-based benefit systems and unemployment benefits, exportability to the country of origin after the return of a foreign national is not possible.

The conditions governing TCN access to social security benefits in relation to the minimum period of employment or payment of contributions are no different to the requirements placed on the citizens of the CR for any type of social security benefits. A person is eligible for healthcare, sickness cash benefits (sickness benefit and treatment benefit) and compensatory benefit in pregnancy and maternity if the person participates in insurance. A person becomes eligible for financial assistance in maternity, unemployment benefits and pension benefits only after a certain period of payment of insurance contributions for the insurance is complied with. With non-insurance-based systems, participation in social security insurance is, of course, irrelevant.

If necessary, third country nationals may use the social counselling services or translation and interpretation services provided mainly by non-profit organisations working with migrants. Some of them cooperate with the Ministry of the Interior.

Although the number of TCNs in the territory of the CR is constantly increasing, there have been no major problems with migrants so far. However, the government is also aware of the possible risks involved with TCN access to social security and healthcare. In its *Concept of Integration of Foreign Nationals*, the government addresses the accessibility

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of healthcare, particularly with regard to those foreign nationals who are not eligible for public health insurance (the non-profit sector has also been pointing out the problems with commercial health insurance for some time now).⁵¹

⁵¹ Government Resolution No. 99 of 9 February 2011 on the Updated Concept of Integration of Foreign Nationals – Co-existence. Available at: <<http://www.cizinci.cz/files/clanky/741/uv-09022011.pdf>>; Consortium of Non-governmental Organisations Working with Migrants in the CR. Projects. Available at: <<http://www.konsorcium-nno.cz/projekty.html>>

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10. Annexes

Annex 1: Case Studies - Summary

Case study 1:

Basic facts:

Married couple - TCNs

Citizenship: Vietnamese

Duration of stay in the CR: 10 years

Residence permit: Long-term residence

Man's employment: Last 8 years – he paid mandatory contributions; now he has been dismissed due to redundancy

Woman's employment: Last two years – she also paid mandatory contributions

Child: Birth of the first child is expected in 6 weeks

Claimed benefits: Unemployment benefits; benefits in maternity

Claimed benefits:

Pillar	Benefits	Eligibility for the benefit	Under what conditions
Unemployment benefits	Unemployment benefit	NO	Unemployment benefit is granted only to job seekers. The condition regarding residence – permanent residence in the territory of the Czech Republic – has not been met for inclusion in the register of job seekers.
	Retraining benefit	NO	Retraining benefit is given to job seekers. The condition regarding residence – permanent residence in the territory of the Czech Republic – has not been met for inclusion in the register of job seekers.
Benefits in maternity and paternity	Financial assistance in maternity (FAM)	YES	The woman is eligible if she files an application for FAM through her employer or her former employer.
	Compensatory benefit in pregnancy and maternity	NO	There is no reason; the woman is eligible for FAM.

Case study 2:

Basic facts:

Single mother - TCN

Citizenship: Philippine

Duration of stay in the CR: 2.5 years

Residence permit: Long-term residence

Employment: Nurse for the last 2.5 years; now her salary was drastically decreased as a result of budget cuts

Children: 2 years (this child lives with their mother in the CR; a citizen of Philippines) and 5 years (this child lives in the Philippines)

Claimed benefits: Family benefits, guaranteed minimum resources benefits

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Claimed benefits:

Pillar	Benefits	Eligibility for the benefit	Under what conditions
Family benefits	Parental benefit	YES	The person has had registered residence pursuant to the Act on the Residence of Foreign Nationals in the Territory of the Czech Republic for a period longer than 365 days.
	Child benefit	YES	The person has had registered residence pursuant to the Act on the Residence of Foreign Nationals in the Territory of the Czech Republic for a period longer than 365 days. Note: This applies provided that the child who lives with the mother in the territory of the CR complies with the condition of having had registered residence pursuant to the Act on the Residence of Foreign Nationals for a period longer than 365 days; and also provided that the child who remained in the Philippines will be excluded from the group of persons assessed together for the purposes of the child benefit.
Guaranteed minimum resources	Special immediate assistance	NO	Under certain circumstances, this benefit can be provided; see above Table 1 – page 10.
	Subsistence benefit	NO	
	Housing benefit	NO	

Case study 3:

Basic facts:

Highly qualified worker - TCN

Citizenship: Senegalese

Duration of stay in the CR: 6 years

Residence permit: Long-term residence

Man's employment: Last 3 years; has suffered an occupational injury and now cannot work

Family: No children, single; his mother (80 years) has now come under family reunification and she is completely dependent on his income

Claimed benefits: Disability benefits, sickness cash benefits, family benefits and benefits for occupational injuries and occupational diseases

Claimed benefits:

Pillar	Benefits	Eligibility for the benefit	Under what conditions
Sickness cash benefits	Sickness benefit	YES	If the attending physician issued a temporary incapacity to work certificate and the man participates in sickness insurance (insurance premium is paid on his behalf for sickness insurance).

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Disability benefits	Disability pension	YES	Only if the disability resulted from an occupational injury or an occupational disease. Otherwise eligibility for a disability pension will only arise if the condition of the required period of insurance is met.
Benefits for occupational injuries and occupational diseases	Temporary incapacity to work	Any employee employed pursuant to the Labour Code is eligible	Compensation for lost income amounting to the difference in the wage or salary, or to the difference between the sickness benefit and the average income before the injury was sustained.
	Compensation after the end of incapacity to work	Any employee employed pursuant to the Labour Code is eligible	This is provided in the amount of the difference between average income before the injury was sustained and the income achieved after the occupational injury or after the occupational disease was identified, with addition of a pension, if any.
	Compensation for pain and increased difficulty of finding a job	Any employee employed pursuant to the Labour Code is eligible	If a physician issues a statement determining a score indicating the level of pain and difficulty of finding a job.
	Compensation for property loss or damage	Any employee employed pursuant to the Labour Code is eligible	Based on presented documentation of the amount of property loss or damage.
	Reimbursement for “purpose-spent” costs associated with treatment	Any employee employed pursuant to the Labour Code is eligible	Based on presented documents proving the spent costs.