



MINISTRY OF THE INTERIOR
OF THE CZECH REPUBLIC



The Organisation of Asylum and Migration Policies in the Czech Republic

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LIST OF ABBREVIATIONS

APS	Alien Police Service
AVR	Assisted Voluntary Return
CZSO	Czech Statistical Office
DAMP	Department for Asylum and Migration Policy
EEA	European Economic Area
EMN	European Migration Network
EO	Employment Office
EU	European Union
GDC	General Directorate of Customs
ICMPD	International Centre for Migration Policy Development
IOM	International Organization for Migration
MoFA	Ministry of Foreign Affairs of the Czech Republic
MoI	Ministry of the Interior of the Czech Republic
MoLSA	Ministry of Labour and Social Affairs of the Czech Republic
NGO	Non-governmental organization
PCR	Police of the Czech Republic
RFA	Refugee Facilities Administration of the Ministry of the Interior
SIS	Schengen Information System
UNHCR	United Nations High Commissioner for Refugees

Executive Summary

The study gives a general overview of how asylum and migration policy is organised in the Czech Republic.

The first section shortly describes political framework in the Czech Republic. Institutional structure is explained more extensively in the following subsection. The most relevant actors are named and also their roles are explained in the text. The important part is section devoted to legislative framework of asylum and migration policy.

The following part of the study describes the changes and developments the Czech asylum and migration policy went through as a consequence of massive changes in the Czech society in last twenty years.

The largest space is given to the section, which is devoted to organisation of asylum and migration policy. Text explains entry procedures, admission conditions, legal residence, access to the labour market, and return policy. It also describes links with other policy areas. In this section of the study you can also find references to changes which will be affective since the beginning of 2009.

The last section analyses the development of the asylum and migration system in the Czech Republic since the beginning of the 1990s until 2008. The most valuable are experiences with the country's transformation from the transit country to the country immigration.

1 INTRODUCTION

1.1 Purpose of the study

The aim of this study is to describe the organisation of asylum and migration policies in the Czech Republic. It includes the institutional context, overview basic laws and regulations. The study also describes organisations and institutions dealing with migration issues.

The study was produced by the Czech National Contact Point of the European Migration Network. The study has a limited scope, as it is intended primarily to integrate new National Contact Points without the precondition of having a national network, and to gain experience in producing a research study. The European Commission will produce a synthesis report, which will bring together the findings from all countries involved.

1.2 Methodology

Study is based on recent and current information available in the Czech Republic. Desk research was conducted using internet sources and other literature. No primary research was undertaken, as it is not the purpose of the EMN.

Substantial part of information was provided by colleagues from the Department for Asylum and Migration Policy of the Ministry of the Interior of the Czech Republic, which the Czech National Contact Point is part of.

The website of the Ministry of the Interior, particularly the sites of the Department for Asylum and Migration Policy, provided useful information on current state of migration and asylum policies in the Czech Republic. Websites of other state institutions were consulted in relevant cases, for example the Ministry of Foreign Affairs, the Ministry of Labour and Social Affairs, the Police of the Czech Republic, etc.

Another very useful source of information was the website of the Czech Statistical Office (CZSO). The CZSO provides various statistics concerning migration and asylum, as well as other information related to this topic.

A literature search was conducted in order to uncover further information with regards to asylum and migration policies in the Czech Republic, especially its development. Some limitations were identified. For example, that the phenomenon of international migration and asylum is still relatively new to the Czech Republic. Although, its importance has been

growing significantly. Recently this phenomenon has become more and more the centre of attention of various actors such as state organisations, academic institutions, international organisations, etc.

Structure of the study is in accordance with the specifications¹ within the European Migration Network. Only chapter 4.1.2 Admission Conditions and chapter 4.1.3 Legal Residence were put together in order to respect Czech legislation.

¹ European Migration Network – Specifications for EMN Study 2008 (I), MIGRAPOL EMN 146.

2 OVERVIEW OF ORGANISATION OF POLITICAL, LEGISLATIVE AND INSTITUTIONAL FRAMEWORK IN THE CZECH REPUBLIC

2.1 Political Framework

The Czech Republic is a parliamentary democracy with the Prime Minister as the head of the Government. The President is the formal head of state but has limited powers. The Constitution of the Czech Republic divides power in the following way: legislative power executed by a two-chamber Parliament, executive power executed by the Cabinet and the President, and judiciary power exercised by independent courts.

The Czech Republic is divided into 13 regions and the capital city of Prague, each of which is governed by its administration. The basic territorial units are municipalities and corporate towns. Each municipality is administrated by a mayor. The head of corporate towns is a lord mayor. Regions are administrated by a governor (hejtman); only in the capital city of Prague is this position reserved for Prague's mayor.

2.2 Institutional Framework

This section will provide a general overview of institutions relevant to migration and asylum. Each subsection describes the structure of a given institution, its responsibilities and scope of competence.

2.2.1 Ministry of the Interior – Department for Asylum and Migration Policy

The **Ministry of the Interior** (MoI) is the main body responsible for immigration and asylum related issues in the Czech Republic, both at legislative and strategic levels, and the level of implementation. **Department for Asylum and Migration Policy** (DAMP) is responsible for carrying out these tasks within the Ministry of the Interior.

The DAMP is divided into eleven units covering a wide range of activities². There are two main directions of the department's activities. The first is development of general policy concerning international migration, its guidance, evaluation and preparation of legislation (both in asylum and immigration area). The second is practical implementation of matters mentioned below.

² In 2009 the DAMP will undergo reorganization to reflect developments in the Czech migration policy.

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The DAMP executes public administration in field of international protection. It is a first instance authority at administrative decisions on asylum and subsidiary protection. It is also liable for temporary protection of aliens. Its responsibility is the integration policy of persons granted international protection. The DAMP represents the MoI at the court in cases connected with international protection.

Furthermore the DAMP is partly responsible for public administration connected with entry and stay of aliens on the territory of the Czech Republic and state border protection. The Department has the option of repealing a stay permit already issued. It also issues, within decisions on administrative expulsion issued by the Alien Police, binding opinions, when these are required by the Police. Since 1 January 2009 the DAMP, as a first instance administrative authority, will decide on long-term residence permits for the purpose of the protection on the territory and on permanent residence.

The DAMP was given the position of the superior body of the Police of the Czech Republic, the Directorate of Alien Police Service (DAPS). On this account, the DAMP issues instructions for the DAPS.

The DAMP analyzes risk factors which have an influence on the area of migration. It also coordinates activities in this sphere. In September 2007 an **Analytic Centre for Border Protection and Migration** was established. It is an interagency analytical centre that works on a daily basis and concentrates on information exchange and analyses in the field of migration, visa, and asylum. Illegal employment is also included. Members of the centre come from various institutions that to some extent take part in border protection, migration and asylum in the Czech Republic.

The DAMP is involved in the process of concluding international agreements related to international migration. It is also responsible for fulfilling obligations of the Czech Republic under the Schengen agreements. The Department fulfils objectives of the MoI concerning Schengen cooperation.

The DAMP implements state integration programme supporting integration of recognized refugees. The DAMP organizes support for persons with arguable Czech origin who live in distant or endangered regions. This includes also programs of resettlement. Since September 2008 the DAMP became the main co-ordinator of policy of integration of foreigners. This responsibility was shifted from the Ministry of Labour and Social Affairs.

The department also participates in preparation of humanitarian projects, projects of illegal migration prevention, stabilization of potential immigrants in critical regions, reintegration of failed asylum seekers returned to their country of origin refugees, and assists in formation of the asylum infrastructure in source countries of origin (humanitarian and development cooperation).

2.2.2 Refugee Facilities Administration

The **Refugee Facilities Administration of the Ministry of the Interior** (RFA) provides services in asylum facilities to persons applying for international protection or persons already granted protection. The RFA has status of organizational body of the MoI. There are three types of asylum facilities. The Reception Centre serves applicants during the process of submitting an application and during the initial process of identification and quarantine. The Residence Centre serves applicants during asylum proceedings until final decision is delivered. The Integration Asylum Centre provides temporary accommodation to persons granted protection.

The RFA also administers Detention Centres of Aliens. These centres are dedicated for detention of aliens whose stay on the territory of the Czech Republic conflicts with the law. Primarily, detention centres are used by aliens who have received verdict of administrative expulsion and detention.

In cooperation with the Police and the International Organisation for Migration, the RFA directly organises repatriations of foreign nationals to their countries of origin.

2.2.3 Police of the Czech Republic

An integral part of the Police of the Czech Republic is the **Alien Police Service**³ (APS). The APS performs tasks related to the border clearance procedure, national border protection, permitting entries and residence of foreign nationals and controls of foreigners' residence in the Czech Republic. The priority of APS is to eliminate adverse impacts of migration, in particular to combat illegal migration and related phenomena, such as smuggling of people and trafficking in human beings.

³ Previous name was Border and Alien Police Service.

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On the 21st of November 2007 the APS underwent significant restructuralization due to the country's accession to the Schengen Area. The Czech Republic has no external borders excepting the international airports where protection is exercised by the APS.

The Territorial Directorates include Alien Residence Investigation and Control Departments and Groups for Crime Investigation. These bodies carry out tasks mainly related to detecting and preventing illegal migration, exposing criminal activity which has a cross-border dimension, and to the violation of residence rules by foreign nationals. The Territorial Directorates also include Departments for Specialised Activities that are responsible for observing and analysing developments in the field of security and migration, operating information systems and registries, and fulfilling tasks resulting from international treaties (especially Schengen Agreement and Dublin Regulation).

The APS consists of the Directorate of the Service, of 7 Territorial Directorates and 48 Inspectorates. 43 of them are located inland and 5 are located at international airports. The inspectorates subserve the task of the Police in the field of public administration. The main tasks are:

- issuing and withdrawing entry permits and residence permits,
- carrying out the residence controls,
- pursuing protection of the state borders in case of their temporary reimplementation,
- detecting false documents,
- international cooperation (especially cross-border pursuit),
- operating the information systems.

The other part of the Police that has special competencies linked to migration issues is the **Criminal Police and Investigation Service**, having a nation-wide competence, and, in particular, its special department, the Unit for Combating Organised Crime. The Unit carries out tasks against illegal migration and smuggling of people. This police unit is involved in detecting cases of forced labour and labour exploitation as well.

2.2.4 Ministry of Foreign Affairs

The Ministry of Foreign Affairs of the Czech Republic (MoFA) is the central body that formulates foreign policy. In the framework of foreign policy, it creates strategies and coordinates foreign development aid.

The MoFA performs its state administration responsibilities relating to the issuance of visas through embassies and consulates. The embassies and consulates decide on granting short term visas.

In case of long-term visa or residence permits, the embassies and consulates accept applications, but decisions are made by the Alien Police. The MoFA exercises its state administration powers in affairs relating to residence permits granted to foreigners enjoying privileges and immunities in the Czech Republic in accordance with international law.

At the MoFA, several departments deal with visa policy. The Department for Consular Policy and Methodology is responsible for technical aspects and methodical instructions of the visa process. Territorial departments are responsible for the area of bilateral agreements on visa liberalisation and facilitation.

2.2.5 Ministry of Labour and Social Affairs

The Ministry of Labour and Social Affairs (MoLSA) sets out labour market access criteria for foreign nationals. The Ministry lays down conditions regarding work permits and is responsible for legal regulations governing the employment of foreigners in relation to relevant EU legal provisions.

In addition to national legal regulations, the sphere of labour migration is governed by bilateral international agreements regulating social security and employment. Multilateral conventions also regulate employment of aliens, for example conventions on human rights, the status of refugees, and social rights.

The Foreign Employment Unit of the Employment Policy and Labour Market Section is responsible for affairs of illegal employment, its prevention, control and research.

The Employment Offices and the Inspectorates of Labour Implementing are controlling bodies of MoLSA. The inspectorates deal with protection of work and legal relations and

work conditions. The Employment Offices detect illegal employment and run administrative procedures if violation of law is detected.

The Employment Offices (EOs) are very important players in the field of aliens employment. They decide about issuing of work permits to aliens and also about their revocation. On the basis of a work permit the Alien Police can issue a long-term visa or a residence permit on the territory of the Czech Republic.

The EOs provide consulting and information services concerning illegal employment. For employment purposes EOs keep records of aliens. EOs execute control activity, including penalisation. Regarding the illegal employment controls in the illegal employment controls in this field are also carried out by customs authorities.

MoLSA is responsible for the **Interagency Body for Combating Illegal Employment of Aliens**. This body consists of representatives of the MoLSA, Security Intelligence Service, Czech Statistical Office, General Directorate of Customs, Ministry of Finances, Ministry of Industry and Trade, Ministry of the Interior, Ministry of Foreign Affairs, Directorate of Alien Police Service, State Bureau of Work Inspection and also institutions such as Research Institute for Labour and Social Affairs, Charles University, trade unions and industry association. The objective of this body is to coordinate activities of corresponding organisations, to prepare legislation and tools of prevention, to create a concept of dealing with illegal employment of aliens, to suggest direction for control activities, to obtain information from research, etc.

2.2.6 Ministry of Industry and Trade

The Ministry of Industry and Trade regulates conditions of issuing trade licenses. In connection with this, the Ministry deals with issues concerning the business activities of foreigners. The Ministry cooperates with other Ministries in the field of integration of foreigners and provides analytical support.

2.2.7 Ministry of Justice

The Ministry is involved in the issue of migration with respect to its competencies relating to legislative activities, drafting bills and other legal provisions regulating the sphere of justice and prison services.

The Ministry keeps records of judicial expulsions of foreign nationals. In extradition proceedings, the Minister of Justice decides upon the extradition of foreigners for criminal prosecution or to serve a sentence, but only provided that a court of justice has decided that such extradition is permissible or where the respective foreign national has agreed to his/her extradition.

2.2.8 Ministry of Education, Youth and Sports

The Ministry of Education, Youth and Sports is the body responsible for education at all types of schools. It is also responsible for vocational education and training projects that provide foreigners with practical or professional skills and experience. It is in the Ministry's competence to provide access to education for the children of foreigners. The Ministry of Education, Youth and Sports or higher education institutions recognize higher education qualifications acquired at foreign higher education institutions on the basis of submitted documents of studies. Since 2009 the Ministry will, acting in agreement with the MoI, lay down the scope of required knowledge of the Czech language for the purpose of obtaining a permanent residence permit⁴.

2.2.9 Customs

The General Directorate of Customs (GDC) carries out controls of means of transport, sites and places potentially be connected with violation of customs regulations.

Since 2004 customs authorities are responsible for control of illegal employment. Customs Offices inspect whether the person is working in agreement with the work permit, if it is required by law. Customs officers are entitled to be shown a work permit by aliens. Customs officers inform Employment Offices about the results of these controls and supply evidence for administrative procedures which are done by EOs. Customs Offices have control competences only.

2.3 Legislative Framework

In the previous years, attention had been directed towards achieving full harmonisation of national legislation with EC law. Several amendments to the legislation mentioned below

⁴ The Ministry will also provide a list of schools authorised to teach the Czech language and organise examinations and a sample of a certificate proving the required knowledge of the Czech language for the purpose of obtaining permanent residence permit.

had been enacted in order to ensure the compatibility of national law and to ensure the transposition of Council Directives.

2.3.1 Act on the Residence of Aliens

The legal regulation on immigration conditions is basically comprised in the Act⁵ on the Residence of Aliens on the Territory of the Czech Republic, as amended (hereinafter referred to as “the Alien Act”).

The Alien Act lays down i.a. rules for:

- entry to the territory of the Czech Republic, border checks and refusal of entry;
- temporary stay on the territory;
- permanent residence on the territory;
- special provisions on stay of EU citizens and their family members on the territory;
- aliens’ duties;
- travel documents (in possession of aliens only; legal regulation of Czech travel documents is included in the Travel Documents Act);
- administrative expulsion;
- detention of aliens;
- administrative offences;
- powers of the competent authorities.

Borders and immigration issues are regulated by the EU law to a large extent. The Alien Act thus reflects the EU legislation and/or refers to it.

2.3.2 Act on Asylum

International protection in the form of asylum and subsidiary protection, and their proceedings are governed by the Act on Asylum⁶. The Act on Asylum encompasses issues that relate to persons who applied for international protection in the Czech Republic.

The Act on Asylum provides for:

⁵ The Act on the Residence of Aliens on the Territory of the Czech Republic (Act No. 326/1999, Coll.)

⁶ The Act on Asylum (Act No. 325/1999, Coll.)

- conditions of entry and stay of a foreigner, who expresses his/her intention to apply for international protection in the Czech Republic,
- procedure of granting international protection (asylum and subsidiary protection),
- rights and duties of applicants for international protection,
- definition of competencies of other institutions related to asylum issues,
- administration of asylum facilities.

2.3.3 Act on Temporary Protection of Aliens

The Act on Temporary Protection of Aliens⁷ stipulates conditions of entry and stay of aliens for a purpose of temporary protection, procedure of granting a temporary protection, legal statute of person granted temporary protection and institutions involved.

The Czech Republic grants temporary protection to aliens, who left their country of citizenship or country of last residence on a mass scale, and who cannot return back. This law is used when the temporary protection was pronounced by the Council of the European Union.

2.3.4 Act on the Police of the Czech Republic

The Act on the Police of the Czech Republic⁸ defines organization of the Police, its competencies, procedures, etc. In relation to international migration it is mainly state border protection, identification, detention, expulsions and other procedures concerning foreigners. It also regulates relation between the Police and the Ministry of the Interior with regard to sharing information from registers.

On the 1st of January 2009 the new Act on Police⁹ will come to force. With regard to aliens, the most important change is shift in competencies concerning issuing the residence permits. Administration of residence permits will gradually shift from the Police to the civil body – the Department for Asylum and Migration Policy of the Ministry of the Interior.

⁷ The Act on Temporary Protection of Aliens (Act No. 221/2003, Coll.)

⁸ The Act on the Police of the Czech Republic (Act No. 283/1991, Coll.)

⁹ The Act on the Police of the Czech Republic (Act No. 273/2008, Coll.)

2.3.5 Act on Protection of the State Borders

The Act on Protection of the State Borders¹⁰ governs the protection of the state borders from illegal crossing, and ensures fulfilment of obligations resulting from the Schengen agreements. Further it governs competences of the Police when securing borders. The Act also describes offences violating this law.

2.3.6 Labour Code and Act on Employment

New Labour Code¹¹ came to force on the 1st of January 2007. Along with the Act on Employment these two acts constitute the most important law regarding employment of foreigners.

The Act on Employment¹² defines the conditions of employment in the Czech Republic. In relation to foreigners, it sets out principles of employment of foreigners, work permit duty or green card duty. Furthermore, it also assesses the duty of employers to inform the Employment Office about employment of foreigners. Following the accession of the Czech Republic to the European Union, EU-nationals¹³ are not considered as foreigners for the purpose of this act and have the same legal status as Czech nationals.

The Employment Offices are responsible for keeping records of foreigners working in the country and their family relatives including EU-nationals. The Act on Employment and the Alien Act stipulate control activities in field of employment. These acts authorise the Police along with other bodies to enter the premises and facilities of employers.

According to the amendment of the Act on Employment, since the beginning of 2009 the Ministry of the Interior will be issuing position when person or company would be granted permit to arrange employment to a third country nationals.

2.4 Other Stakeholders

There is a great number of other stakeholders that are involved in the asylum and migration process in addition to the institutions already mentioned. The historical development of the asylum and migration system was influenced by cooperation with different actors.

¹⁰ The Act on Protection of the State Borders (Act. No. 216/2002, Coll.)

¹¹ The Labour Code (Act No. 262/2006 Coll.)

¹² The Act on Employment (Act No. 435/2004 Coll.)

¹³ Along with nationals of Norway, Switzerland, Lichtenstein and Iceland

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At present, the Ministry of the Interior closely cooperates with the International Organization for Migration, especially in the area of assisted voluntary returns. Other actors include non-governmental organizations as the Consortium of Non-governmental Organizations Working with Migrants. This group consists of several organizations such as the Organization for Aid to Refugees, the Counselling Centre for Integration or the Counselling Centre for Citizenship, Civil and Human Rights. These organizations focus on various aspects of integration of foreigners and they provide legal and social services.

Furthermore, research institutes collect data concerning migration and are able to provide valuable information relevant to this field. Such institutes are the Institute for Information on Education, the Research Institute for Labour and Social Affairs, the Institute of Health Information and Statistics and the Institute of International Relations.

3 DEVELOPMENT OF ASYLUM AND MIGRATION SYSTEMS

The situation in the area of migration in the Czech Republic has undergone dramatic changes in last two decades. Until 1989, former Czechoslovakia had only limited experience with immigration. After the end of communist era, the state policies dealing with asylum and migration were substantially modified and the country adopted a more open approach towards migration than previously.

According to statistics, the number of foreigners living in the Czech Republic has been increasing permanently. In January 1993, when the Czech Republic was founded, around 50 thousand of foreigners lived in the country. By 2008 the number of aliens legally living in the country has increased up to 400 thousands. This increase is one of the highest among developed countries.

3.1 Czechoslovakia until 1993

During the communist regime (1948 to 1989) Czechoslovak borders were almost impermeable. Typical for this era was that mostly highly skilled Czechs and Slovaks left the country despite the risks. From 1950 to 1989, it is estimated that more than 550 000 people emigrated. Western European countries, in particular Germany, but also traditional immigration countries such as the United States, Canada, and Australia, were the emigrants' destinations.

Characteristic for this period was internal migration from agricultural to industrial regions and to the larger cities, particularly to Prague. During the 1980s, international migration was characterised by, the so called, international support, which represented economic migration of tens of thousands immigrants from Viet Nam, Cuba, Angola, Mongolia and Poland. Immigrants from these countries came to gain skills and work experience. At the same time they filled gaps in the Czechoslovak labour market. This system of recruiting students, apprentices, and workers functioned via intergovernmental agreements and, to a much lesser extent, also through individual contracts (mainly with workers from Poland and Yugoslavia). These immigrants usually stayed several years and were involved in various branches of the economy, such as food-processing, textiles, shoe and glass industries, machinery, mining, metallurgy, and agriculture.

After the year 1989 Czechoslovakia went through many fundamental changes. One of the most significant ones was transformation from country of limited immigration to immigration country. As a consequence of previous developments, the society was not prepared to receive new inhabitants during the transit period. The state did not have the sufficient capacity, institutions, experts and not even laws to tackle the new phenomenon. The society itself also had to learn how to deal with migration.

Czechoslovakia did not have any experience with asylum. The asylum system could not be built as an integral part of the immigration system. During this period legislative and institutional foundations for dealing with refugees and people coming from regions affected by wars were laid down. During the year 1990 the Government established the Government Commissioner for the Questions of Refugees. The Secretariat of the Government Commissioner was responsible for issues connected to refugees until 1993. In 1990, Czechoslovakia acceded to the 1951 Convention Related to the Status of Refugees and the 1967 Protocol, and, in 1993, the Czech Republic reaffirmed its accession following the split of Czechoslovakia. In the January 1991, the first law dealing with refugees, the Act on Refugees¹⁴, came to force.

3.2 Czech Republic between 1993 - 1999

At the beginning, the Czech migration policy could be described by a **liberal approach** towards immigration. The main reason why immigration was not managed efficiently was that the country lacked clearly defined migration policy and to some extent also did not have institutions capable of dealing with immigration.

During this period, it was possible to submit an application for the visa on the territory of the Czech Republic and not only at diplomatic missions abroad as is the case now. The Alien Act¹⁵ of 1992 adopted this principle from the law¹⁶ that was valid from 1965, but the situation in the country was entirely different. The result was that immigration was monitored but little regulated. Foreigners had a chance to come to the country, but the way towards permanent residence or towards naturalisation was lengthy and difficult.

¹⁴ The Act on Refugees (Act No. 498/1990, Coll.)

¹⁵ The Act on Stay of Aliens on the Territory of the Czech and Slovak Federative Republic (Act No. 123/1992, Coll.)

¹⁶ The Act on Stay of Aliens on the Territory of the Czechoslovak Socialist Republic (Act No. 68/1965, Coll.)

State bodies dealing with refugees and migration and their structure changed many times. In 1993 Department for Refugees was created at the Ministry of the Interior. In 1996 the ministry established the Refugee Facilities Administration of the Ministry of the Interior. Later on, in 1998, the Department for Refugees became the Department for Refugees and Integration of Foreigners.

The creation of the asylum system was an expensive and lengthy process. Because the Czechoslovak asylum system was built as a whole, the division of Czechoslovakia brought many problems. The location of asylum facilities was not effective and also permeability of the new border was high. First decisions on asylum applications were made by the Police (Alien and Border Police). The second instance was the Appeal Commission of the Minister of the Interior.

Since November 1998, the Ministry of the Interior took over responsibility for asylum matters. The newly created Department for Refugees and Integration of Foreigners was responsible for asylum decisions in the first instance. Applicants had the right to appeal against negative decisions to the Minister of the Interior who had for these matters a special commission. The commission partially consisted of representatives from non-governmental and academic sphere.

During this period, first readmission agreements were signed. The first was with Austria at the end of 1992, followed by Poland (1993) and Romania in (1994).

The period of liberal approach to immigration was followed by a period, when immigration rules and practice tightened. The liberal period terminated by the adoption of the new Alien Act¹⁷ and also by new Act on Asylum¹⁸ in 1999. More restrictive immigration policy was a result of the new situation (growing unemployment, awareness of long term impact of illegal migration).

3.3 Czech Republic - 2000 until nowadays

Of the last period, which started in 2000, a more conceptual and comprehensive approach towards immigration is typical. The new Aliens Act and Act on Asylum passed through the legislative process and came to force on the 1st January 2000. In comparison to the previous state, these acts were substantially restrictive and caused a temporary freeze of immigration.

¹⁷ The Act on Stay of Aliens on the Territory of the Czech Republic (Act No. 326/1999, Coll.)

¹⁸ The Act on Asylum (Act. No. 325/1999, Coll.)

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The new Alien Act for the first time allowed all foreigners legally residing in the country for over ten years to obtain permanent residence permits.

During this period the Czech immigration and asylum legislation also continued to be harmonised with the EU. Particularly due to the country's accession to the European Union on the 1st May 2004.

The new Act on Asylum (in force since 2000) provided asylum seekers with more benefits, for example the right to work as soon as they had submitted their applications. This change resulted in a significant increase in the number of applications in 2001, which were submitted mostly by illegal employees trying to legalise their status and avoid deportation. The law was amended in 2002 and banned applicants from entering the labour market during the first year of asylum procedure.

In March 2000 new Department for Immigration and State Border Protection was created at the Ministry of the Interior. In July of the same year it was merged with Department for Refugees and Integration of Foreigners and the Department for Asylum and Migration Policy was created. This integrated the main responsibility for asylum and migration into one body.

Following the establishment of the Administrative Judiciary, the second instance in asylum decisions was entirely transferred to the court.

Work on the Policy of Integration of Foreigners started in 1999. The Ministry of the Interior was the main co-ordinator of integration of foreigners, with exception of 2004 – 2008 when the co-ordinator was the Ministry of Labour and Social Affairs.

In 2001 the government started to prepare the Project of Selection of Foreign Qualified Workers and in 2003 it launched its pilot stage. The project gives opportunity to foreign qualified workers to work legally in the Czech Republic under more favourable conditions. Successful participants can obtain the permanent residence permit after period shorter than five years, which is usual for other aliens. Project is based on the point system and it is open to applicants from selected countries.

In 2003 the Czech Government adopted the **Principles of the Czech Government Alien Immigration Policy**¹⁹, a fundamental document and a base for building up the modern and targeted immigration strategy of the Czech Republic.

Such principles, in general, expressed the Czech Republic's will to deal with immigration policy actively and responsibly whilst respecting commitments arising from international conventions, agreements and international organizations' recommendations regarding immigration. These are bases for solving specific issues in the field of migration and areas directly linked or related to it. In the form of implementation, elaboration of such issues into concrete and controllable tasks and specifications of responsibilities takes into account currently existing priorities. It is a gradual and long-term process.

1. With regard to international obligations which are to arise from the EU membership, the Czech Republic consistently fosters government control in the field of immigration.
2. The country's immigration policy is based on the coordinated approach of all state administration bodies and local governments and institutions and it is promoted by other entities dealing with immigration.
3. The country's immigration policy is aimed at eliminating all forms of illegal immigration and other illicit activities by means of measures taken on the basis of international cooperation as well as measures adopted at the national level.
4. The country's immigration policy does not hinder legal migration and supports those forms of immigration that are beneficial to the country and society in the long term.
5. The implementation of the country's immigration policy is conditional upon the mass involvement of non-governmental and other organisations of the civic society.
6. The Czech Republic is involved in global and European communities' efforts aimed at coping with migration-related consequences of humanitarian crises and eliminating the reasons for such phenomena.

The first step towards meeting these principles was the **Action Plan on Combating Illegal Migration**²⁰, which was based on Principle No. 3 submitted by the Ministry of the

¹⁹ Resolution No. 55/2003 of 13 January 2003, point II/I the Principles of the Czech Government Alien Immigration Policy

²⁰ The Action Plan on Combating Illegal Migration was discussed and subsequently adopted by Czech

Interior. Its main objective is to find and implement such measures that would minimise illegal migration in the Czech Republic and to persuade foreigners to arrive in the Czech Republic legally. Measures adopted for combating illegal migration have been divided into five fundamental areas (prevention; control and sanctions; legislation; inter-ministerial cooperation; international cooperation).

Major turning point of the Czech asylum and migration policy was accession of the Czech Republic to the European Union on the 1st May 2004. The Czech Government didn't impose any restriction towards EU nationals entering the labour market. In asylum matters, significant change was application of Dublin system during the asylum proceedings.

At the end of the 2007, the country entered the Schengen area. Border checks were abolished on land borders. Border checks remained only on the international airports which are the only external border in the Czech Republic.

In connection with economic growth in recent years, there was a huge demand for foreign workers. Businesses in certain areas or in certain industries felt labour shortages. New legislation, which will be valid since January 2009, has accommodated these needs and introduced system of Green Cards. The Green Card is a dual permit, which contains work permit and residence permit in one document. The Green Card notably simplifies the application process.

4 ORGANISATION OF POLICY

4.1 Asylum

The international protection issues in the Czech Republic are regulated by the Act on Asylum²¹. Act does not cover only asylum but also other forms of international protection. The proceedings for granting or withdrawing of international protection are within the competence of the DAMP.

The international protection procedure is conditional on the foreigner's declaration made on the territory of the Czech Republic. The declaration of the intention to apply for asylum can be made to the Police at a border crossing, in a reception centre, in an Alien Police Department when a person came voluntarily, in an aliens detention centre, or to the Ministry, if an applicant is hospitalized in a medical facility, or imprisoned. The declaration may be made in writing, or orally and entered into a record.

The foreigner is obliged to appear in the reception centre within 24 hours since he or she expressed the intention to submit the application for international protection. The only exception is a situation when the foreigner cannot arrive due to objective reasons (imprisonment, hospitalization) – in these cases a representative of the Department for Asylum and Migration Policy visits the foreigner and takes the application for asylum at the place of his or her actual stay.

The proceedings are commenced by filing an asylum application. A participant in the proceedings is entitled to request assistance from a legal entity or a private individual engaged in providing legal assistance to asylum-seekers. Participant is also entitled to use his or her mother tongue, or a language in which he or she is able to communicate, during the course of the proceedings. For this purpose, the Ministry provides the participant, at no charge, with an interpreter for the entire course of the proceedings. The applicant is entitled to engage an interpreter of his or her own choice at the applicant's own costs. An interview is compulsorily conducted with the applicant for international protection in order to establish the actual state of the matter in a reliable manner. The interview is entered in a record.

²¹ The Act on Asylum (Act No. 325/1999, Coll.).

Within 90 days following the commencement of the proceedings, the DAMP makes its first instance decision on asylum application. If, given the nature of the matter, a decision cannot be made within this period of time; the DAMP may extend this period accordingly. In the case of manifestly unfounded application accelerated procedure is used. In this case a decision is issued within 30 days of the date of commencement of the proceedings.

An action against the decision of the Ministry on the asylum matter may be filed. The filing of an action has a suspensive effect (with some exceptions). The proceedings on an action fall within the competence of the regional court in the jurisdiction of which the applicant has the registered address on the day of filing the action. This step ensures that the asylum applicant can be provided with an independent review of the administrative decision. The court reviews the decision for legality – it does not decide on the asylum matter as such. Hence, the court can either confirm the decision of the administrative body or cancel it and refer it to new administrative proceedings. An extraordinary appeal remedy against the regional court decision on asylum matters is a cassation. Decision on cassation is in competence of the Supreme Administrative Court.

4.2 Migration

4.2.1 Entry Procedures

4.2.1.1 Border Control

Entry procedures of the Czech Republic are fully conformable with the EU legislation. Following the country's accession to the Schengen Area, border controls are carried out only at the international airports – the only external borders of the Czech Republic.

With the relation to the entrance of the Czech Republic to the Schengen area, the Government adopted the second version of the **National Plan for Integrated Border Management**. The National Plan is based on a four-zones border security model that entails activities abroad, international cooperation, activities at the borders itself and measures taken on the territory.

The issue of “profiling” (pre-selecting passengers posing a high risk of attempting illegal migration) has become a subject of regular trainings of police officers serving at international airports in the Czech Republic. These trainings are carried out as part of the training covering assessment of the genuineness of documents.

4.2.1.2 Visa requirements

National legislation and contractual relations applicable to granting visas are fully compliant with the requirements of the Schengen acquis. The visa policy of the Czech Republic was harmonized with Council Regulation²² listing the third countries whose nationals must be in possession of visas when crossing the external borders (Annex I) and those whose nationals are exempt from that requirement (Annex II).

Applications for the Czech visas have to be submitted at Czech embassies or consulates²³. The Ministry of Foreign Affairs is fully competent for processing the short-stay visa applications. In case of long-stay visa, the MoFA is responsible for the acceptance of applications, but the APS decides whether visa is granted or not.

4.2.1.3 Pre-entry assessment

Activities pursued by Czech embassies or consulates include the collection of information regarding the situation in the respective countries. Such information is important primarily with respect to the analysis of the threat of illegal migration from the areas concerned, as well as the visa policy pursued by the Czech Republic. In this respect, representations abroad elaborate annual analytical consular reports and provide regular information on the basis of monitoring the situation in the given country.

Document advisers have been lately deployed in relevant countries. Document advisers are primarily charged with assisting and supporting representations abroad, transportation companies, border and immigration authorities in the host country in the field of documents.

Immigration police officers are posted to third and transit countries for the purpose of establishing and maintaining contacts with the host countries' bodies with a view of contributing to illegal migration prevention, repatriation of illegal migrants and legal migration management. The tasks of these policepersons are particularly to provide the staff of an embassy or consulate with methodological and expert assistance, to cooperate with them during interviews with applicants for visas and to provide the staff of an embassy with

²² Council Regulation (EC) No. 851/2005 of 2 June 2005 amending Regulation (EC) No 539/2001, listing the third countries whose nationals must be in possession of visas when crossing the external borders (Annex I) and those whose nationals are exempt from that requirement (Annex II).

²³ In selected countries visa applications have to be submitted through the Czech Visa Centre. Visa receiving process is outsourced to an external subject. The external subject has no possibility to influence whether the visa is granted or not and it is not even informed about the results.

specialised knowledge gained from the police practice, which can be important during the process of granting visas. There is also the benefit of ensuring a flexible cooperation and communication between embassies in risk regions and the MoI. With the scope of their action and their position, these police officers represent a transition between a Document Advisor and an Immigration Liaison Officer.

In this context a new concept of posting liaison officers was approved in June 2008. It broadened competences to the issues of legal and illegal migration so as to ensure that their activities comply with the requirements laid down by Council Regulation on the creation of an immigration liaison officer's network²⁴.

The inspection of travel documents is not carried out by the members of the APS until the passengers are on the territory of the Czech Republic. The check of the travel documents in the third country is the responsibility of the carrier. Carriers face a sanction when bringing to the destination a person without documents. The respective person is also a subject of return at the cost of the carrier.

4.2.1.4 Post-Entry Measures - Internal identity controls

Particularly pursuant to the Alien Act²⁵, the APS authorities carry out residence checks in order to find out whether the persons are staying on the territory of the Czech Republic with authorisation and whether they meet the conditions for their stay on the territory of the Czech Republic as defined in this Act.

As a result of accession of the Czech Republic to Schengen Treaties, associated with removal of border controls at internal land borders, the system of service of the APS units particularly concentrates on carrying out residence checks of foreigners in the entire territory of the Czech Republic, including the border areas. In this context some police competencies were extended.

4.2.2 Admission Conditions and Legal Residence

An alien may stay on the territory of the Czech Republic either without a visa, on the basis of a visa (short-stay visa, long-stay visa, diplomatic visa, special visa or visa for the purpose

²⁴ The Council Regulation (EC) No. 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network.

²⁵ The Act No. 326/1999 Coll. on the residence of aliens on the territory of the Czech Republic and on changes to some Acts, as amended.

Leave to Remain), on the basis of a long-term or permanent residence permit or on the basis of an exit order. Applicants for the international protection can also stay on the territory. There are special provisions concerning EU citizens and their family members. These categories are further described in the subchapters below.

4.2.2.1 Stay without a visa

A foreign national may stay in the Czech Republic on a temporary basis without a visa when:

- it is stipulated by an international agreement or by a government regulation;
- an alien is a citizen of the European Union;
- in other cases²⁶.

The right to stay on the territory of the Czech Republic without a visa applies to citizens of the EU, Norway, Iceland, Switzerland and Liechtenstein. Further, the citizens of countries listed in the Annex II of the Council Regulation (EC) No 539/2001 do not need visas for stays not exceeding three months per six-month period.

In addition, there are some special categories of persons exempted from the visa obligation, such as holders of diplomatic and service passports of selected countries or pilots or members of the attending staff on a regular scheduled flight.

4.2.2.2 Short-stay visa

A short-stay visa is:

- a) an airport visa - visa of type A,
- b) a transit visa - visa of type B,

²⁶ An alien can stay on the territory when he/she:

- is detained or serves a sentence of imprisonment or is placed in a police cell; such a foreign national may stay in the Czech Republic without a travel document during the period of such detention, imprisonment or placement;
- is under 15 years of age may stay as provided above during the period of hospitalisation;
- is a holder of a long-term residence permit or a permanent residence permit for the territory of any Contracting State and the duration of his/her stay in the Czech Republic does not exceed 3 months;
- is a pupil on the school trip residing in the EU Member;
- is a family member of a citizen of the European Union and is a holder of temporary or permanent residence permit of any other EU Member State and the stay does not exceed the period of three months; or
- has a status of long-term resident in the European Communities in any other EU Member State and the period of his/her stay does not exceed three months.

c) a visa for maximum length of stay of 90 days - visa of type C,

the visa of type A, B or C, which was of the Czech Republic.

All short-stay visas are issued by diplomatic missions or consulates of the Czech Republic in consultation with the Police and intelligence services. The Alien Act lays down a list of prerequisites, which the third country national must attach to his/her application for a visa (e.g. travel document, photograph, invitation or proof of funds etc.). The Alien Act also stipulates reasons for the refusal of granting visa.

4.2.2.3 Long-stay visa

Visa for a stay longer than 90 days (visa of type D or D+C) are granted by the Police at the request of an alien who intends to stay on the territory for a purpose requiring a stay on the territory exceeding 3 months. A long-stay visa is generally valid for a period of 1 year²⁷.

An application for this visa shall be lodged at the embassy or consulate, which submits it to the Police. In addition to the basic attachments to an application (travel document, photograph, funds), an alien has to submit the proof of accommodation. On the request he/she has to submit an extract from the Criminal Register and medical report²⁸. The proof of health insurance has to be submitted before actual denotation of the visa into a passport.

When applying for a long-stay visa an alien has to prove the reason of his/her stay. E. g. in case of a long-stay visa for a purpose of an employment applicant has to submit work permit. A trade licence or the reference number of the application for a trade licence of a concession has to be submitted for a visa for a purpose of business.

When deciding on stay of foreign nationals on the Czech territory, responsible authorities of the Czech Republic require a travel document that enables them to check data filled in the application for the specific residence permit. Furthermore, the foreign national is checked in relevant police databases and the Schengen Information System. No checks such as scanning of fingerprints are carried out.

²⁷ A long stay visa is also granted for the purpose of receipt of a permanent residence permit or a long-stay permit for purpose of family reunification/formation, study or scientific research. In this case visa is valid only for a very limited time.

²⁸ Such medical report can only be requested if there is a reasonable suspicion that the foreign national suffers from a serious disease.

4.2.2.4 Diplomatic visa or a special visa

Diplomatic visas or a special visa can be issued to an alien who enjoys the relevant privileges and immunities.

4.2.2.5 Long-stay visa for the purpose Leave to Remain in the Czech Republic

The Police shall grant a visa for the purpose Leave to Remain to an alien:

- a) who is prevented from departing the Czech Republic by an obstacle beyond his/her control;
- b) who is a witness or injured party to criminal proceedings and his/her participation in such proceedings is necessary;
- c) who applied in the Czech Republic, within the period for which his/her residence permit was still valid, and his application is pending; or
- d) who lodged an action against the decision of the Police or the Ministry and who applied for a suspensive effect.

4.2.2.6 Long-term residence permit

Generally, an alien who is staying on the territory with a visa for a stay longer than 90 days and intends to stay on the territory for a period longer than 1 year on a temporary basis is entitled to file an application for a long-term residence permit, provided that his/her purpose of stay remains the same. An application for a long-term residence permit shall be filed to the Police²⁹ on an official form, i.e. an application is lodged on the territory.

However, the Alien Act, in compliance with EU legislation, provides for several exemptions from the duty of previous stay on the territory on the basis of a long-stay visa and makes it possible to apply for a temporary residence permit directly. In such cases, the applications are lodged at the Embassy. The exemptions especially relate to stays:

- of family members of an alien with a residence permit,
- of aliens who are residents in another EU country,
- for study purposes, and
- for purposes of scientific research.

²⁹ According to the new legislation, competencies in issuing residence permits will gradually shift from the Police to the civil body – the Ministry of the Interior.

Attachments to applications are the same as in the case of a long-stay visa. In addition an alien must submit documents attesting the purpose of his/her stay (proof of family relations, confirmation of study, etc.). The validity of a long-term residence permit is derived from the purpose of stay, generally 2 years.

In cases of small business and corporate enterprise, the third country national must document that the purpose of residence persists, i.e. that the trade license is still valid, that his/her firm is still listed in the Companies Register. He/she also has to submit certificates on his/her arrears of tax and of health and social insurance payments. Tax Authority of the Czech Republic and District Social Security Administration draw the certificates.

4.2.2.7 Stay on the basis of an exit order

An exit order is a decision issued by the Police in cases of termination of the alien's stay or cancellation of his/her visa or residence permit. The alien is obliged to leave the territory by the deadline specified in the exit order unless an expulsion procedure has been commenced.

4.2.2.8 Permanent residence permit

Generally, a permanent residence permit can be issued to an alien after 5 years of continuous stay on the territory. The Alien Act waives the requirement of 5 years period of continuous stay in some cases, especially on the basis of humanitarian grounds or grounds of national interest.

An alien coming to the country through the project of Selection of Qualified Foreign Workers can receive a permanent residence permit after two and a half years of stay. In case of highly qualified workers a period is only one and a half year. This applies also to family members of such a worker.

In case of family member of EU citizen, he/she can get permanent residence permit after two years of legal residence in the Czech Republic, if he/she is a family member of EU citizen for more than one year.

An alien has to file the application to the Police³⁰ or in some cases to the Embassy or consulate. Documents, which have to be submitted with the application, are the same as in the case of long-term residence permit.

From January 1, 2009 new regulations will come into force. Under these regulations, applicants for permanent residence will have to supply a document issued by an authorised educational institution that proves a required level of knowledge (corresponding to the A1 level of the Common European Framework of Reference for Languages) of the Czech language. Exceptions for certain vulnerable groups exist. The first examination is paid for by the state.

4.2.2.9 Special provisions on stay of EU citizens and their family members

Free movement of persons is one of the basic principles in the EU. To fulfil this principle, there are special rules regulating the entry and stay of EU citizens and their family members within the territory of EU Member States. The same rules apply for citizens of Norway, Iceland, Liechtenstein (Member States of European Economic Area) and Switzerland. The Czech Republic fully transposed EU legislation³¹ dealing with this matter.

In the Czech Republic, EU citizens are entitled (not obliged) to apply for a temporary residence permit for stay exceeding 3 months. An EU citizen shall be granted such a permit under the condition that he/she has not seriously endangered a security or public order of the Czech Republic. Family members are obliged to apply for a temporary residence permit for stays exceeding 3 months.

4.2.2.10 Naturalization

After five years of legal permanent residence, an alien may apply for the citizenship of the Czech Republic³².

This qualification may be dispensed of in case that the applicant is granted permanent residence permit and fulfils any of the following conditions:

- was born in the Czech Republic;

³⁰ Since the January 2009, the application will have to be submitted to the Ministry of the Interior, the Department for Asylum and Migration Policy.

³¹ Directive 2004/38/EC of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

³² The Act on Acquisition and Loss of the Citizenship of the Czech Republic (Act No. 40/1993, Coll.).

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- has lived on the territory of the Czech Republic continuously for at least 10 years;
- once had Czech or Czechoslovak citizenship;
- has been adopted by a Czech citizen;
- his wife/her husband is a Czech citizen;
- at least one of his/her parents is a Czech citizen;
- settled in the Czech Republic before January 1, 1995 upon government invitation;
- is stateless or has refugee status in the Czech Republic.

The permanent residence is not required in other forms of acquisition of a Czech citizenship:

- birth (if at least one parent is a Czech citizen, or, if the parents of the child born on the territory of the Czech Republic are stateless and at least one of them is permanent resident on the territory of the Czech Republic)
- adoption (if at least one of those who adopt the child is a Czech citizen)
- filiation (if the father of illegitimate child, whose mother is alien or without citizenship, is a Czech citizen)
- finding (if the person is found on the territory of the Czech Republic and unless it is proven that he/she acquired other citizenship by birth)
- declaration (this relates to Czechoslovak citizens as of December 31, 1992 who are not Czech or Slovak citizens, their children, and direct descendants unless they are citizens of another country)

An applicant has to prove that by naturalization he/she will lose his/her actual citizenship. During the administrative procedure applicants are screened by the Police and intelligence services. This includes searches in criminal and immigration databases. However, fingerprints are not taken for this purpose.

Applicants also have to pass an oral exam, which proves their language skills. It has to prove that the applicant for naturalization can respond fluently and using correct grammar to questions on common life situations and reproduce contents of a newspaper article.

4.2.3 Access to the Labour Market

4.2.3.1 Employment of Foreign Nationals in the Czech Republic

Access to the labour market falls within the competence of MoLSA and is regulated by the Act on Employment³³.

According to the Act on Employment, EU citizens³⁴ and family members of Czech or EU citizens has the same legal status as Czech nationals. Their employers only have to inform the Employment Office about this fact.

Other nationals can be in general employed only when he/she is in the possession of a valid **work permit** and a valid residence permit³⁵. Before an employer can issue a hiring commitment to a foreign national, the employer has to obtain a **permit for the hiring of foreign employees**.³⁶

An alien has to apply for the work permit at the Employment Office. Employment Office can issue a work permit if a work position was notified as vacant and it cannot be filled by any other person because of required qualification or labour force shortage³⁷. Employment Office also considers the situation on the labour market.

The Act on Employment stipulate the category of foreign nationals, who may be employed in the Czech Republic irrespective of the situation in the labour market, to aliens with permanent residence permit, to persons granted asylum or subsidiary protection and to a resident of other EU country (after one year of residence).

In case foreigner performs more jobs at the same time, he/she has to possess a separate work permit for each job. Regarded as employment is also fulfilment of ordinary tasks ensured by an associate or a member of statutory body for the business company, etc.

³³ The Act on Employment (Act No. 435/2004).

³⁴ The same rules apply for citizens of Norway, Iceland, Liechtenstein (Member States of European Economic Area) and Switzerland.

³⁵ Since 2009 third country national can be employed when he/she is in a possession of Green Card. Green Card is a combination of work permit and residence permit.

³⁶ Since 2009 permit for the hiring of foreign employees will no longer be needed.

³⁷ These conditions do not have to be fulfilled by an alien, who works as an intern, or who is younger than 26 years and works within the educational exchange program, or who is an applicant for the international protection (after one year), or who is a church clerk, or who has visa for purpose leave to remain. Full list of these exemptions is given in the § 97 and 98 of the Act on Employment.

Entry of third country nationals has been promoted since 2003 through the project of **Active Selection of Qualified Foreign Workers**. Under the project, an opportunity is given to qualified experts and their families from selected countries and those third country nationals who graduated from Czech high schools and universities (excluding graduates in the framework of development aid) to obtain a permanent residence permit within a considerably shorter period than usual and to enjoy a 45 day protective period to find a new job after accidental loss of job.

The project of **Green Cards** will start in 2009. This merges permit of residence with work permit and thus facilitates entry of the nationals (primarily the highly qualified) of selected third countries, the list of which is defined in the Decree of the Ministry of the Interior³⁸. Application for a Green Card is to be filed with an embassy or consulate of the Czech Republic abroad. In the cases explicitly stated in the Alien Act, a foreign national can file the application with the Ministry of the Interior, while staying in the territory of the Czech Republic. Applications for the extension of validity are received by regional offices of the Ministry of the Interior and the ministry also decides on termination or cancellation of the Green card.

4.2.3.2 Small business and corporate enterprises of foreign nationals

Generally, a person with a permanent address or legal entity with registered address outside of the Czech Republic may operate a business in the Czech Republic under the same conditions as a Czech entity.

Carrying small business by aliens is regulated by the Act on Small Businesses³⁹. Third country national, who intends to carry small business in the Czech Republic, is obliged to have a residence permit and has to submit documents of such permit to a Trade Licensing Office when applying for the Trade Certificate. An individual⁴⁰, who was granted asylum or subsidiary protection, can carry small business on the same conditions as a Czech national.

The legislation applicable to corporate enterprises can be found under the Commercial Code⁴¹. Companies and Corporations have the status of legal entities. A foreign entity's right to conduct business in the Czech Republic starts on the date of the registration of this entity

³⁸ Decree of the Ministry of the Interior No. 461/2008 Coll.

³⁹ The Act on Small Business (Act No. 455/1991, Coll.)

⁴⁰ This includes also his/her family members.

⁴¹ The Commercial Code (Act No. 513/1991, Coll.)

with the Czech Companies Register. In order to conduct business as a company, foreign national must possess a residence permit issued for the purpose of membership in a legal entity.

4.2.4 Return

Return policy is an integral part of migration policy of the Czech Republic.

4.2.4.1 Assisted voluntary return

Assisted voluntary returns apply to third country nationals whose stay on the territory of the Czech Republic is unauthorized and also to people who were not successful in seeking international protection. The first above mentioned category applies especially to third country nationals who received a decision on expulsion and who were given a time limit for leaving the territory of the Czech Republic.

The programmes of assisted voluntary returns are at present offered to the following individual categories of third country nationals.

- I.** The Refugee Facilities Administration offers a programme to persons seeking international protection or people whose application for international protection was rejected.
- II.** Assisted voluntary returns are offered by the Ministry of the Interior to third country nationals who received a decision on expulsion and who received a time limit for leaving the territory of the Czech Republic but were not detained.
- III.** The Police of the Czech Republic carries out assisted voluntary returns of third country nationals under detention.

Each of these possibilities is associated with specific conditions that differentiate them.

Category I – Information on the possibility of assisted voluntary return is given to persons applying for international protection during the initial interview in the Reception Centre. It is possible to request assisted voluntary return up to 24 hours after the final decision from the Supreme Administrative Court of the Czech Republic takes effect. If it is proven that the person cannot afford to cover the expenses associated with the return, the cost is covered by the state with no claims against the person.

Category II – Third country nationals who received a decision on their expulsion and who were given a time limit for leaving the territory of the Czech Republic but who do not have valid travel documents and the financial means necessary for returning can request the Ministry of the Interior to cover these expenses. When such a request is granted by the Ministry, the person will also receive pre-departure assistance. This assistance is provided on the basis of a contract between the Ministry and the International Organization for Migration. The third country national that takes advantage of this possibility of return, must cover half of the associated costs. Until he/she does so, he/she becomes *persona non grata* for up to 6 years.

Category III – This category applies to third country nationals who had been detained by the Police of the Czech Republic on the basis of an administrative decision. The detected persons are offered to join the assisted voluntary return programme that is carried out by the International Organization for Migration. When the detained person decides to join this programme, his/her return is carried out by the IOM (he/she is accompanied only by representative of IOM to the airport and the authorities in the country of origin are not notified of the person's arrival). In case that the person refuses to take part in IOM's assisted voluntary return programme, he/she is deported by the Police. The authorities in the country of origin are notified and the person's documents are passed on to the authorities together with the apprehended person.

The Assisted Voluntary Return Programme includes providing information about AVR, assisting with the realization of AVR, and especially with helping to obtain a substitute travel document for third country nationals without valid travel documents or other documents that are necessary for successfully completing AVR.

Furthermore, assisted voluntary returns are also partially realized as a part of foreign development aid programmes. In the past years non-governmental and international organizations acted as partners of the Czech government in this area. They undertook activities aimed at the stabilization of populations and at prevention of possible irregular migration. These projects were carried out in Armenia, Georgia, Moldavia and in the Ukraine.

4.2.4.2 *Forced return*

In the case of forced returns, it is possible to distinguish the expulsion with police escort or without it. Police escorts are used in cases when there is a reason to believe that the third country national could thwart the return to the country of origin or because of security

reasons. Police escorts are also used in cases of forced return of a greater number of third country nationals from surrounding third countries that are transported over land.

In addition to the above discussed types of return, the Police of the Czech Republic also realize expulsions that have been ordered by the courts in criminal proceedings.

4.2.4.3 Readmission agreements

The Ministry of the Interior of the Czech Republic pays ongoing attention to this area, since it is one of the prerequisites for successful combating of illegal migration and it is an important mechanism of return policy.

The Czech Republic strives to conclude readmission agreements which lay down rules for repatriation of people, in particular as regards limits and evidence proving nationality of citizens of contracting states. In addition, readmission agreements focus on conditions for the return /taking over of third-country nationals who entered the territory of a contracting state illegally from the territory of the other contracting state.

Readmission agreements are concluded mainly with those countries which, on the one hand, are the source of the most illegal migrants, and, on the other hand, do not cooperate when such illegal migrants are being returned.

Currently there are two streams of activities of the Czech Republic in this regard. The Czech Republic endeavours to enter into bilateral readmission agreements and it also participates in the work of the European Commission on concluding readmission agreements with certain third countries.

The Czech Republic concluded bilateral readmission agreements with 13 countries. Among these there are all the countries neighbouring with the Czech Republic (Germany, Poland, Austria, and Slovakia) and also Slovenia, Hungary, Bulgaria, Romania, Croatia, Moldavia, Canada, and Vietnam. A readmission agreement had been signed with France but has not come into effect due to the fact that an implementing protocol has not been signed so far.

In addition to these bilateral agreements, Community readmission agreements also exist (with Hong Kong, Macao, Sri Lanka, Albania, Russia, Ukraine, Moldavia, Serbia, Montenegro, Macedonia, and Bosnia and Herzegovina).

4.3 Links with other Policy Areas

4.3.1 National level

Working groups and commissions that bring together experts from various ministries and administrative bodies enable to share experience and knowledge. Continuous exchange of relevant up-to-date information and data that are subsequently analyzed and evaluated is very useful.

In order to bring together experts from the state administration that may have an impact on migration issues the **Analytic Centre for Border Protection and Migration** has been established. Consultations of experts take place on a regular basis within the Centre. The analysts produce studies and targeted analyses that are distributed to all relevant partners. The analyses are used to provide proposals of measures and solutions to concrete problematical areas.

4.3.2 International level

Cooperation at the EU level takes place as well as at the multilateral and bilateral levels. Experts from Police departments and state administration participate in exchange of information and data through various EU working groups and platforms. Apart from this, there is a good experience with cooperation via bilateral and multilateral exchange of information. The Police units cooperate with their partner organizations abroad.

The success of cooperation depends to a certain extent on the topicality, regularity and comparability of data and information exchanged. Sometimes it may be difficult to ensure comparability of data because various agencies may apply different definitions and methodology of data collection. Availability of data and information can cause some problems too as institutions collect data with respect to different time frames.

5 ANALYSIS OF ASYLUM AND MIGRATION SYSTEMS

In the last nineteen years following the fall of the communist regime, the Czech Republic has undergone significant social and economic changes. The formation of asylum and migration policy was complicated by social and economic problems of transformation into a democracy. In addition, the Czech Republic had to go through the process of formation of a new state, since Czechoslovakia split up in 1992.

Since the early nineties when the Czech Republic was mainly a transit country and around 50 thousands of foreigners lived on its territory, the situation changed dramatically. Fifteen years later the Czech Republic transformed into country of destination with more than 400 thousands legally residing foreigners. Within the European countries the Czech Republic became one of the countries with the highest early increases in the foreigner population.

Legislation had to undergo radical changes. The old one, which was reflecting situation during the communist regime, had to be replaced. Present legislation has been harmonised with the law of the European Communities. This process was crowned by the accession of the Czech Republic to the European Union in 2004 and later on by the accession to the Schengen Area in 2007.

Asylum and migration is a matter covering wide range of areas and touching many subjects. It is therefore necessary to highlight the importance of multidimensional approach when dealing with asylum and migration.

The objective of the Czech Republic is to achieve the immigration policy which is based on balance among benefits and risks connected with the immigration. The managed migration, including the circular migration, represents a basis for the future steps. Integral part of this concept is also an effective integration policy. Cooperation with various partners on national level and also on international level cannot be omitted in this context.

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