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OF THE CZECH REPUBLIC



## **Annual Policy Report 2008**

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## **List of Abbreviations**

APS	Alien Police Service
DAMP	Department of Asylum and Migration Policy
EMN	European Migration Network
EO	Employment Office
EU	European Union
GDC	General Directorate of Customs
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 Annual Policy Report 2008 for the Czech Republic provides an overview of the most significant changes and developments in the area of migration, asylum and integration during the year of 2008. This report represents the first full-length material in the series of Annual Policy Reports for this country within the framework of the European Migration Network (EMN) and it is provided in the structure given by the Annual Policy Report Specifications (MIGRAPOL EMN Doc 160).

The Czech Republic has been fully integrated into the Schengen area since 21 December 2007 when border control at internal borders was abolished, while border checks on internal Schengen flights were lifted on 30 March 2008. As per security issues, this entry did not bring any distinct changes in the area of illegal migration but brought changes to rules governing the entry into and stay in the Czech Republic for foreign nationals. Significant changes took place in the year 2008 in the area of labour migration: new amendments to the Employment Act and to other laws were drafted by the Government, discussed by the Parliament of the Czech Republic and finally adopted. It introduced the Green Card Scheme, a facilitation of procedures when employing foreigners, as well as a tougher regulation of job agencies employing and intermediating jobs to foreigners. Furthermore, the Government decided to transform the pilot stage of the Project Selection of Qualified Foreign Workers into a standard part of labour migration management. However, at the same time, due to the outbreak of the economic crisis, the situation of employment among immigrants began to deteriorate sharply in the end of 2008 and started to influence migration and integration policies. In February 2009, the Czech Government launched a temporary Project of Voluntary Returns for foreigners affected by the crisis.

The institutional structure relevant to migration, asylum and integration policies changed notably during 2008. In order to achieve better interconnection between migration and integration policies, the coordination agenda of integration policy was moved from the Ministry of Labour and Social Affairs to the Ministry of the Interior as of 1 August 2008. Also, the first stage of the reforms of the Police of the Czech Republic was prepared, including the shifting of competences for issuing permanent residence permits from the Alien Police Service to the Ministry of the Interior.

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The main public and expert debates focused on the above-mentioned changes, mainly on the entry of the Czech Republic into the Schengen area, the Green Card Scheme, the situation of immigrants who lost their jobs, forced labour and labour exploitation of foreigners by some employment agencies, and the insufficiencies of the Czech/Schengen visa system concerning its capacity limits.

Developments in asylum matters in the year 2008 were relatively minor in comparison with the fundamental changes from previous years, aiming mainly at transposing EU legislation. The most relevant amendment of the asylum legislation concerned repetitive applications for international protection, which enabled applicants to lodge new applications for international protection immediately after the previous negative decision had come into force. This provision came into force on 1 January 2008.

The Czech Republic joined other European states pursuing resettlement activities based on the principles of their annual resettlement programs within the framework of the EU. This was accomplished by the adoption of Policy of the National Resettlement Program which included a draft of the pilot resettlement program for Burmese asylum seekers from Malaya implemented in October 2008.

As per integration policy, besides institutional adjustments, new approaches were introduced in order to increase the effectiveness of integration measures and to increase the involvement of the municipal/regional levels, while the so-called emergent integration projects have been launched. This is deemed to become successful especially with the synergic effect of means from European Fund for Integration of Third-country Nationals that was prepared to be published by the Ministry of the Interior during 2008.

The new obligation to prove knowledge of the Czech language when applying for a permanent residence permit was to be introduced as of 2009.

As per family reunification, access of Czech/EU/EEA/CH citizens' family members to permanent residence was restricted in order to prevent the misuse of the previous, rather benevolent system.

While implementing relevant EU directives, more favourable conditions for third-country nationals to reside in the Czech Republic for the Purpose of Scientific Research were introduced into Czech legislation.

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As per citizenship and naturalization, preparatory works on a new Act on the Acquisition and Relinquishment of Czech Citizenship continued from the previous year with the estimated date of its coming into force in 2010.

# **1 POLITICAL DEVELOPMENTS IN THE CZECH REPUBLIC**

## **1.1 General Structure of the Political System and Institutional Context Relevant to Migration and Asylum**

The Czech Republic is a parliamentary democracy with the Prime Minister as head of the Government. The President is the formal head of state but has limited powers. The Constitution of the Czech Republic divides powers 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 them governed by their 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), while only in the capital city of Prague is this position reserved for Prague's lord mayor.

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 partially also at the level of implementation. The **Department of Asylum and Migration Policy** (DAMP) is responsible for carrying out these tasks within the Ministry of the Interior.

An integral part of the Police of the Czech Republic is the **Alien Police Service**<sup>1</sup> (APS). The APS performs tasks related to border control, security clearance within visa and residence permit issuing procedure, long-term visa and residence permits and other tasks related to stay of foreign nationals in the Czech Republic.

The **Ministry of Foreign Affairs** (MoFA) performs its state administration responsibilities related to the issuance of visas through its diplomatic missions and consular posts. The consular posts decide on short-term visas applications. In case of long-term visas or residence permits, the applications are submitted at the consular posts, but decisions are made by the APS.

The **Ministry of Labour and Social Affairs** (MoLSA) is liable for the integration of foreigners into the labour market. The MoLSA was also responsible for coordinating

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<sup>1</sup> Previous name was Alien and Border Police Service.

the integration policy in the Czech Republic until 31 July 2008, when this responsibility was shifted to the MoI.

Following government departments and institutions have partial competencies in the field of asylum and migration policy:

- Ministry of Industry and Trade,
- Ministry of Justice,
- Ministry of Education, Youth and Sports,
- Refugee Facilities Administration of the MoI
- and Customs Service.

*More detailed information concerning the above-mentioned institutions can be found in the previously released EMN study entitled “Organisation of Asylum and Migration Policies in the Czech Republic”.*

## **1.2 General Political Developments**

Throughout the reference period, the Czech Republic was governed by a coalition of three parties – Civic Democratic Party (ODS) and two other minor parties - Green party and Christian and Democratic Union - Czechoslovak People’s Party. This coalition held a fragile majority in the Czech Parliament.

Two elections took place in the Czech Republic during 2008 – the **election to the regional councils<sup>2</sup> and to the Senate** of the Parliament of the Czech Republic (1/3 of the seats). They were held simultaneously on 17-18 October, followed by the second round of Senate elections a week later. The left-wing Czech Social Democratic Party (ČSSD), which was in opposition at governmental level, won both elections.

Such a massive loss of preferences for the ruling coalition during these elections was followed by a heated political debate in the end of 2008. Self-criticism on the side of this coalition led to personal changes at the posts of several ministers. As per ministries with some relevance to migration and asylum matters, a change was made at the post of non-

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<sup>2</sup> Members of the regional governments are elected each 4 years.

departmental minister for minorities and human rights – Ms. Džamila STEHLÍKOVÁ was replaced by Mr. Michael KOCÁB as of 23 January 2009. The Minister of the Interior Mr. Ivan LANGER and Minister of Labour and Social Affairs Mr. Petr NEČAS remained at their posts during 2008.

### **1.3 Institutional Developments**

As part of an ongoing wider process aimed at facilitating services provided by the Police and making the Police more efficient by removing unnecessary bureaucratic burdens, the Alien Police Service (APS) will undergo **substantial organizational changes** within the next few years. The aim is to shift certain administrative tasks to the Ministry of the Interior (MoI) in order to separate the execution of administrative agenda from supervisory (repressive) activities. The first stage of the changes concerning the reform of the APS organizational structure started on 1 January 2009 when the competence for issuing all permanent residence permits<sup>3</sup> and long-term residence permits for the purpose of protection in the territory was shifted from the APS to the MoI.

Furthermore, due to the country's accession to the Schengen area on 21 December 2007, the police service dealing with migration and foreigners underwent on 21 November 2007 significant **structural changes**. In this context, the former **Alien and Border Police Service** was reorganised as of 21 December 2007 to become the **Alien Police Service** of the Police of the Czech Republic (hereinafter referred to as 'APS') consisting of the Directorate of Alien Police Service and seven Territorial Directorates of Alien Police Service. The Specialised Activities Department and Documentation Group were established within each Territorial Directorate. 48 Alien Police Inspectorates were established from the former 117 Alien and Border Police sub-units and 78 Alien Police Units. Inspectorates are located throughout the entire Czech Republic, the APS is no longer present at former border crossing points with the neighbouring countries.

Since 30 March 2008, APS has been in charge of border control only at 16 international airports of the Czech Republic operating non-Schengen flights. Until 21 December 2007, the former Alien and Border Police Sub-Units protected a part of the national border known as 'the green border' of 2.324.6 kilometres at length and operated at border crossing points.

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<sup>3</sup> Until 31 December 2008, the MoI only decided on granting of permanent residence permits in certain specific cases such as permanent residence permits on the humanitarian grounds, for the reasons worthy of special consideration or in the interest of the Czech Republic.

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They protected 151 border-crossing points in total, including 95 road, 32 railway, 4 river, and 20 airport border crossing points. Apart from official border crossing points, these sub-units performed services at other 222 points officially designated for crossing of the national border, i.e. 32 border crossings for local border traffic (only at the border with Poland) and 190 paths for tourists (at the border with Poland, Austria, and Germany).

As result of a Government resolution, the **agenda of coordinating the integration policy has been shifted from the MoLSA to the MoI** as of 1 August 2008. Therefore, the DAMP of the MoI is now the main coordinator of activities concerning integration of immigrants in the Czech Republic. It is responsible for the integration policy and cooperation with other ministries and various bodies in this field. The Commission of the Minister of Labour and Social Affairs for the Integration of Foreigners, which consisted of representatives of various bodies involved in integration, was transformed into a similar body administered by the DAMP of the MoI. The Department of Migration and Integration of Foreigners at the MoLSA was dissolved.

As part of the “Solidarity and Management Flows” programme, **funding from the European Fund for the Integration of Third Country Nationals was introduced**. It constitutes a significant growth in resources available specifically for the integration of immigrants. The Czech Republic also continued in implementing other three funds available under this programme.

After having participated in the preparatory action of the European Migration Network (EMN) since 2002, the **DAMP as national contact point of the EMN** was fully integrated into the network following the adoption of the Council Decision of 14 May 2008.

## **2 POLICY AND LEGISLATIVE DEVELOPMENTS IN THE AREA OF MIGRATION AND ASYLUM**

### **2.1 General Structure of the Legal System**

The Czech legal system is a civic law system. It belongs to continental legal systems, more specifically to the Germanic legal system, due to common history. The hierarchy of legal order is:

- Constitution and constitutional law (including the Charter of Fundamental Rights and Freedoms);
- international treaties ratified by the Parliament;
- laws adopted by the Parliament;
- derived legislation (adopted by the government and ministries);
- legislative acts of self-regulated entities (territorial, as well as professional).

Because the Czech Republic is an EU Member State, law of the European Communities and its legislative sources are also part of the Czech legal order.

The following are the most important laws related to international migration and asylum:

- **Act on the Residence of Aliens** (hereinafter referred to as “the Alien Act”)<sup>4</sup> lays down i.a. rules concerning the entry and stay of foreigners in the territory including travel documents of aliens, administrative expulsion, detention and administrative offences of aliens and powers of competent authorities.
- **Act on Asylum**<sup>5</sup> governs international protection in the form of asylum and subsidiary protection and their proceedings.
- **Act on the Temporary Protection of Aliens**<sup>6</sup> stipulates conditions of entry and stay of aliens for the purpose of temporary protection and its proceedings.
- **Act on the Police of the Czech Republic**<sup>7</sup> defines the organization of the Police, its competencies, procedures, etc. In relation to international migration,

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<sup>4</sup> Act on the Residence of Aliens in the Territory of the Czech Republic (Act No. 326/1999, Coll.)

<sup>5</sup> Act on Asylum (Act No. 325/1999, Coll.)

<sup>6</sup> Act on Temporary Protection of Aliens (Act No. 221/2003, Coll.)

<sup>7</sup> Act on the Police of the Czech Republic (Act No. 283/1991, Coll.)

it contains mainly state border protection, identification, detention and expulsion issues and other procedures concerning aliens.

- **Act on Protection of the State Borders**<sup>8</sup> governs the protection of state borders from illegal crossings and ensures the fulfilment of obligations resulting from the Schengen agreements.
- **Labour Code**<sup>9</sup> and **Act on Employment**<sup>10</sup> constitute a general framework for the employment of foreigners.
- **Act on Acquisition and Relinquishment of the Citizenship of the Czech Republic**.<sup>11</sup>

*More detailed information concerning the above-mentioned institutions can be found in the previously published EMN study entitled “Organisation of Asylum and Migration Policies in the Czech Republic”.*

## **2.2 General Overview of the Main Policy and Legislative Debates**

### **2.2.1 Amendment to the Alien Act and Act on Asylum**

In the beginning of 2008, a major amendment to the Alien and Asylum Act came into force. A heated debate on this new amendment continued to a certain degree in 2008 from the previous year of 2007 when various NGOs criticized some of the proposed changes. While the major part of these debates took place in 2007 when the bill was being passed by the Parliament of the Czech Republic, the effects of the changes were still occasionally mentioned by NGOs in 2008 when most of the provisions of this law came into force. The proposal that received probably the most significant media coverage was the introduction of tougher conditions for spouses of third-country nationals who apply for permanent residence, which was effective as of 21 December 2007.

Due to the full application of the provisions of the Schengen acquis as of 21 December 2007, visa related Schengen rules earlier transposed into the Alien Act started to apply. That also received some media attention aimed especially at providing information to the public on the main changes which concerned the issuance of uniform Schengen visas for short

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<sup>8</sup> Act on Protection of the State Borders (Act No. 216/2002, Coll.)

<sup>9</sup> Labour Code (Act No. 262/2006 Coll.)

<sup>10</sup> Act on Employment (Act No. 435/2004 Coll.)

<sup>11</sup> Act on Acquisition and Relinquishment of the Citizenship of the Czech Republic (Act No. 40/1993, Coll.) In case of former citizens of Czechoslovakia, acquisition is governed by a special act - The Act on Citizenship of Certain Former Citizens of Czechoslovakia (Act No. 193/1999, Coll.).

stays and long-term national visas type D+C and new rules for travelling of third-country nationals possessing Czech visas and residence permits.

### **2.2.2 *Green Card Scheme and Employment Agencies***

During 2008, an amendment to the Employment Act was drafted and subsequently passed. It introduced the Green Card Scheme<sup>12</sup>, tougher conditions for job agencies employing foreigners/arranging jobs for them and several measures aimed at facilitating procedures for the employment of immigrants. The Green Card Scheme received the biggest attention in the public debates, especially the settings of the system and how will the countries whose citizens would be entitled to enter be determined. Discussions in the Czech Parliament were also lively, especially after some of the Members of Parliament remarks on health risks connected to increased migration flows.

### **2.2.3 *Entry into the Schengen area***

On 21 December 2007, the Czech Republic started the full application of the Schengen acquis. The entry into the Schengen area brought changes to all persons crossing the borders of the Czech Republic, especially third-country nationals, as rules governing the entry and stay on the Czech territory changed significantly. The Schengen enlargement received immense media coverage back then, focusing mainly on abolishing of border checks and highlighting political and symbolic importance of the event.

Within the foreign national community, the main attention was paid to new rules for travelling within the enlarged Schengen area. Especially foreigners from visa-free countries started applying for long-term visas as the Schengen rules would not let them stay in the enlarged Schengen area for longer than three months in any half year.

### **2.2.4 *Visa System Modernisation and other***

The lack of labour force in the Czech Republic that led to an increased demand for migrant workers was frequently discussed in the media. The topics included calls for faster handling of permits for migrant workers and for simplifying the administrative procedures concerning employment of migrants. Further, the visa system and its capacity were debated.

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<sup>12</sup> Detailed information on the Green Card Scheme may be found in sub-section 2.3.4.1 entitled *Green Card Scheme*.

Due to an increased demand for foreign labour force, there was a boom in the numbers of visa applications to the Czech Republic, the visa system faced its capacity limits and became overloaded. These high numbers could not be managed within the existing settings – there were excessive queues of applicants waiting in front of some embassies in inconvenient conditions and surroundings. Most of the embassies concerned were located in countries that are the main sources of labour migration to the Czech Republic – Vietnam, Ukraine and Mongolia. The system was not transparent and allegations of corruption appeared.

The situation at Czech embassies concerning visa applications and other insufficiencies was criticized in media - critique mainly came from legal representatives of foreigners, NGOs and also from Member of Parliament Ms. Z. RUJBROVÁ-BEBAROVÁ (Communist Party of Bohemia and Moravia).

In response to this situation, the MoFA introduced a new system of visa applications – a call-centre was set up for the most affected embassies (in Vietnam, Ukraine, Russia and Mongolia) in order to establish a system of appointments for visa applicants arranged by phone so they no longer would have to queue in front of the embassies. Furthermore, since autumn 2008, the preparation of a new system of appointment booking via internet began. It is scheduled to be launched in 2009.

After the accession into the Schengen area the respective part of the APS and customs authorities began focusing on more regular and thorough controls in the territory.

An extensive control dated 22 November 2008 caught the attention of media. It was a check-up of the Vietnamese SAPA market halls with warehouses, which is considered to be the centre of life and business of the Vietnamese community in Prague. Some media sensationalized the entire police intervention and blew out of proportion the information on found illegal substances, irregular migrants and weapons found. Other media considered this intervention as slightly inadequate, stating that neither drugs nor weapons were found. A group of Vietnamese students launched a petition against this intervention but it did not receive much attention.

#### ***2.2.5 Knowledge of the Czech Language as a Prerequisite for Permanent Residence***

Another change brought about by the new amendment to the above-mentioned Alien Act was a new system of examinations established for foreigners to fulfil their obligation to prove knowledge of the Czech language. The settings of the system were intensively

discussed among the ministries involved - the MoI, the MoLSA and the Ministry of Education, Youth and Physical Education. It also received significant attention by the wider community of professionals working with foreigners (social workers of NGOs, Czech language teachers, etc.). The most discussed features among them were the level of required knowledge and the accessibility of tuition for foreigners. More details on setting of the system can be found in sub-chapter 2.3.7.2 *Knowledge of the Czech Language as a Prerequisite for Permanent Residence*.

### **2.2.6 *Anti-discrimination Legislation***

The Czech Republic strives to implement anti-discrimination legislation of the EU. The draft of the Anti-discrimination Act, the first possible specific law on this matter in the Czech Republic, was drafted by the Government and discussed and passed by the Parliament of the Czech Republic in spring 2008. However, the draft was vetoed by the President of the country in May 2008.

### **2.2.7 *Impact of the Financial Crisis on Foreigners***

Despite of the fact that during 2008, the Czech Republic was not yet strongly affected by the economic crisis, several thousands third-country nationals employed through employment agencies have been dismissed. As consequence of losing their jobs, many of them lost their residence permits and became illegal residents already at the end of 2008. Many of them sold all their belongings in their country of origin and/or are indebted as consequence of borrowing money to pay for their travel and to the intermediaries of questionable quality. The case of 25-year-old Huy Son Pham, who was found hanged in December 2008, made it to the media as a sad illustration of the difficult situation that many immigrants fall into due to the economic crisis. He had committed suicide, leaving in his home country a wife, two small children and a debt of 10 thousand USD which he had not been able to repay, let alone the interest rates.

NGOs and newspaper and magazines reporters warned about the peculiar situation these migrants face due to the expected effect of the financial crisis in the area of employment. Being aware of the difficult situation of these migrant workers, the Ministry of the Interior began preparing the Project of Voluntary Returns, which was launched in February 2009. It helps migrants return to their country of origin.

## 2.3 Policy and Legislative Developments

### 2.3.1 Immigration Control and Monitoring

#### 2.3.1.1 Changes in National Legislation

The most relevant law in the field of migration – the **Alien Act**<sup>13</sup> - was amended during the reference period of 2008 in regard to control and monitoring as follows<sup>14</sup>.

- Amendment by *Act No. 124/2008 Coll. that changes Act No. 269/1994 Coll. on the Registry of Criminal Records*

On the basis of this amendment, starting on 1 July 2008, the foreigners are no longer required to submit an abstract from the Registry of Criminal Records of the Czech Republic when applying for a visa for more than 90 days, long-term residence permit or permanent residence permit. Verifications of foreigners' non-criminal status are ensured through the cooperation of the Police and the MoI.

- Amendment by *Act No. 140/2008 Coll. that changes some other laws in the field of travel documents*

This law stipulates a postponement of the introduction of new machine-readable travel documents and documents containing biometric data (fingerprints). The new types of documents will begin to be issued on 1 April 2009 instead of the originally planned date of 1 May 2008. Besides Czech citizens, this also applies to foreigners who will have a new foreigner's passport issued.<sup>15</sup>

- Amendment by *Act No. 274/2008 Coll. that changes some other laws in connection with the adoption of the Act on Police of the Czech Republic*

The change brought by this amendment is part of a general and long-term process of facilitating the work of the Police, in particular by moving non-police activities to other bodies. As per migration, certain administrative activities related to the issuance of residence permits were to be shifted from the APS to the MoI.

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<sup>13</sup> Act on the Residence of Aliens in the Territory of the Czech Republic (Act No. 326/1999, Coll.)

<sup>14</sup> Altogether, there were six amendments of the laws that affected the Alien Act as well – four of them are mentioned in this sub-section, following two are described in sub-sections 2.3.3.2 entitled *Disabled Foreign Nationals* and 2.3.4 entitled *Economic Migration*.

<sup>15</sup> In general, a foreign national is issued a passport if (s)he does not possess any valid travel documents and if (s)he complies with the conditions stipulated in section 113 of the Alien Act.

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In the first stage of this process, the agenda of permanent residence permits was moved completely from the APS to the Department of Asylum and Migration Policy (DAMP) of the MoI, effective from 1 January 2009. Before the change, the DAMP decided on permanent residence only in certain cases i.e. on permits issued on humanitarian grounds and other reasons worthy of consideration, and those issued in the interest of the Czech Republic.

The second stage of the Police reform will begin on 1 January 2013, when the MoI will take over the issuing of decisions on long-term residence permits completely. Until then, only decisions on long-term residence permits for the purpose of protection in the territory fall under the competence of the MoI.

The responsibility for issuing and extending validity of relevant residence permits, issuing passports to foreigners and fulfilling tasks connected to reporting changes in places of residence of foreigners with a permanent residence permit also newly belongs within the competence of the MoI.

- Amendment by *Act No. 382/2008 Coll. that changes Act No. 435/2004 Coll. on Employment*

This Act introduced the Green Card Scheme – more details on this new system can be found in sub-section 2.3.4.1 *Green Card Scheme*.

The Act also established the so-called “protective period”, which facilitates the situation of certain categories of foreigners who lost their jobs by providing them with a 60-day period to find a new job. Before the introduction of the protective period, once a foreigner lost his/her job, he/she lost also the purpose of stay, consequently losing the residence permit, and had to leave the Czech Republic. That made finding a new job very difficult even though these foreigners might have been living in Czech Republic for years, and were well integrated.

This provision is not accessible to all foreigners. Only those foreigners are eligible, who have worked legally in the territory of the Czech Republic for at least 1 year, or had a job for a shorter time than 1 year but at the same time resided legally in the territory for at least 3 years before they took up that job. Moreover, a foreigner had to lose their previous job due to “accidental” reasons independent of their will, that is by dismissal due to organizational or health reasons, if the employee ended his/her work relation immediately (as stated in

the Labour Code), or if the employee ended his/her work relation for these reasons by agreement with the employer.

#### 2.3.1.2 Schengen area and Border control

The Czech Republic entered into the Schengen area on 21 December 2007 and from the same date border control at internal land borders was abolished. As of 30 March 2008, border checks on international flights within the Schengen Area were also abolished. That required fundamental modifications in strategic planning with regard to fulfilling the Schengen standards in the Czech Republic after joining the area. Therefore, the *Schengen Action Plan of the Czech Republic 2008* was drafted and later approved by a Government resolution in November 2008. This plan sets the main direction and aims in the selected priority areas for fulfilling the rules of Schengen cooperation in the Czech Republic in the period 2008-2011.

The full application of the Schengen acquis brought a number of significant changes in the visa issuing process. Czech diplomatic missions and consular posts started issuing uniform Schengen visas and long-term national visas type D+C concurrently valid first three months of validity as Schengen visas. Foreign nationals possessing Czech residence permits are now free to stay up to 3 months on the territories of other Schengen states without needing any additional visas.

As of 1 September 2007, the Schengen Information System (SIS) started to function in the Czech Republic. During the year of 2008, the trend from 2007 showing that most of the undesirable persons for the Czech Republic/Schengen area transit through Poland, and therefore come from countries behind the eastern external Schengen border<sup>16</sup>, was further strengthened.

During 2008, preparatory works on introducing the Schengen information system of the second generation (SIS II) also continued. It entails new functions and is to replace the current SIS 1+.

As per border control, the *National Plan for Integrated Border Management of the Czech Republic 2008* was drafted and later approved by the Czech Government. It updated

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<sup>16</sup> The number of hits registered abroad on the basis of Czech records entered into the SIS are as follows: Poland 999, Hungary 252, Austria 127, Slovakia 119, Germany 108 and other countries with less than 100 hits. Total number of hits was 1,922.

the plan from previous years in order to comply with the changed requirements in the area of border control after the Czech Republic entered into the Schengen area.

#### 2.3.1.3 Analytic Centre for Border Protection and Migration

The *Analytic Centre for Border Protection and Migration* was set up by the Czech Government Resolution No. 933 of 22 August 2007, and on 1 July 2008, it was transformed from its pilot stage to a fully operational regime. The outputs of this centre can be used as support material for the management of Czech migration policy and political decision-making in this area. During 2008, several complex reports and studies have been published in response to the current migration situation. A comprehensive report evaluating the security situation in the Czech Republic after its accession into the Schengen area, including an identification of respective security risks and related threats, was published in the summer of 2008.

#### 2.3.1.4 Relevant Court Verdicts on Legislation

The Constitutional Court of the Czech Republic ruled on the abolishment of Section 171 (1) (c) of the Alien Act. This section excluded decisions on administrative expulsion in specific kinds of situations from judicial review (such as illegal presence of foreigner in the territory of the Czech Republic before the expulsion procedure was initiated, or foreigner's illegal presence in the transit area of the international airport). As a consequence of this review, legislative changes in the Alien Act and in the Judicial Administrative Code are necessary and their preparation has begun.

During 2008, the preparation for a reflexion of the decision in case C-127/08 (Metock) of the European Court of Justice into the Czech Alien Act proceeded. The existing wording does not allow authorities to issue temporary residence permits intended for family members of EU citizens to persons who are registered in the Register of Undesirable Persons (*personae non gratae*).

#### 2.3.1.5 Growing Numbers of Foreigners

In last years, the Czech Republic witnessed a stable growth in numbers of foreigners arriving in the country. In 2008, the figure rose to more than 430.000 foreigners, when the steepest rise was manifested by the labour migration inflow. The Czech Republic achieved

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significant increments in numbers of foreigners residing in the territory already during 2007<sup>17</sup> and this trend continued during most of 2008. However, at the end of year 2008, the increase started to decelerate due to the arriving economic crisis. Therefore, the year-to-year growth in 2008 was lower than between preceding years<sup>18</sup>.

According to information provided by the Directorate of the APS, there were 438.301 foreigners present in the Czech Republic on 31 December 2008. The first five nationalities in the statistical records of legal residence in the Czech Republic did not change when compared to previous years. These were in descending order citizens of Ukraine, Slovakia, Vietnam, Russia and Poland.

The most numerous group of citizens possessing a residence permit in the Czech Republic were citizens of Ukraine accounting for 32.3 % of the total number of foreign nationals legally residing in the Czech Republic (131.965 persons). The second largest group was represented by citizens of the Slovak Republic (76.034 persons), while the third one was that of citizens of Vietnam (60.258 persons). As for other places, the aforementioned nationalities were followed by citizens of the Russian Federation (27.176 persons) and Poland (21.710 persons). These TOP 5 nationalities accounted for 73 % of the total number of foreigners in the Czech Republic to date 31 December 2008. The highest growth in numbers among third-country nationals was recorded among the citizens of Vietnam (9.303 persons, i.e.+18,3 %), Ukraine (5.439 persons, +4,3 %) and Russia (3.875 persons, +16,6 %).

As of 31 December 2008, EU citizens have represented almost one third of the total number of foreign nationals with residence permits (146.542 persons, i.e. 33.4 %)<sup>19</sup>.

In 2007, nationals of Mongolia occurred among the first ten nationalities and replaced the nationals of the United States of America. In 2008, the nationals of the United States of America returned to the TOP 10 of most frequent nationals residing in the Czech Republic and took the previous slot of number 10 of Chinese nationals.

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<sup>17</sup> Since the establishment of the Czech Republic, the highest year-to-year increase in holders of residence permits was recorded in 2007. This increase was not only the highest but in comparison with the previous year, it was also very considerable. If current data is compared with the situation on 31 December 1993, at the time when the Czech Republic was established, only 77.668 foreigners were permitted to legally reside in the Czech Republic compared to 392.087 on 31 December 2007.

<sup>18</sup> The number of foreigners increased by 70.631 between 31 December 2006 and 31 December 2007, whereas between 31 December 2007 and 31 December 2008 the growth was lower - by 46.214 foreigners.

<sup>19</sup> More detailed statistics on the foreign population in the Czech Republic are available at the Czech Statistical Office website at <http://www.czso.cz/csu/cizinci.nsf/kapitola/uvod>

## **2.3.2 Refugee Protection and Asylum**

### **2.3.2.1 Legislative Changes**

In comparison with legislative activities in the previous years, when a rather high number of EU laws had to be transposed, the year 2008 was relatively calm. Nevertheless, notable changes were caused by the transposition of an EU directive effective as of the very end of 2007. Especially the important change regarding repetitive applications for international protection significantly influenced the development in 2008. Some other minor changes of the Act on Asylum were also made during 2008.

The transposition of the relevant EU directive<sup>20</sup> into the Asylum Act enabled applicants to lodge new applications for international protection immediately after the previous negative decision on granting international protection had come in force. It abolished the previously exercised time-limit of 2 years for a repeated filing of an application for international protection. This provision came into force on 21 December 2007.

The Act on the Enforcement of Preventive Detention<sup>21</sup> extended the list of places where a person can apply for international protection. Newly, this can be done also while in Preventive Detention.

Travel documents issued to persons granted international protection have to be equipped by a medium for biometric data. Newly, these documents are issued by the Ministry of the Interior and by the Police.

A regulation of the Ministry of the Interior changed the amounts of money provided to persons in asylum facilities (allowance money, pocket money).

### **2.3.2.2 Trends and Changes in International Protection**

The total number of 1.656 applications for international protection was filed in the Czech Republic during 2008. When comparing it with the 1.878 applications lodged in 2007, it represents a year-to-year moderate decline by 11,8 %<sup>22</sup>.

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<sup>20</sup> Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (“procedural directive”)

<sup>21</sup> Act no. 129/2008 Coll. on the Enforcement of Protective Detention

<sup>22</sup> In the previous year, the downtrend was even more distinctive: the year-to-year fall in 2005 and 2006 was app. by 25 %, in 2007 the drop was even 38 %.

The legislative change effective from 21 December 2007 significantly influenced the number of applications for international protection filed in 2008. In 2008, a total of 596 repeated applications for international protection were filed, which represented more than 1/3 of the total number of applications.

The inflow of international protection seekers from Turkey was significant at the turn of 2007 and 2008, when numerous families applied for protection in the transit area of the Prague airport. This led to the introduction of the airport transit visa for Turkish nationals in April 2008.

The main source countries of international protection seekers remained the same as in the previous years – applicants from Ukraine, Turkey, Mongolia and Vietnam represented more than a half of the total number of applications. The most significant perceptual rise was noted for numbers of applicants from Kazakhstan (+143,3 %) <sup>23</sup>, Afghanistan (+80,0 %) and Mongolia (+20,6 %). The highest increases in absolute numbers were recorded for Kazakhstan (+43 applicants), Turkey (+38 applicants) and Mongolia (+33 applicants).

#### 2.3.2.3 Resettlement Programs

In 2008, the Czech Republic joined other European states pursuing resettlement activities based on the principles of their annual resettlement programs within the framework of EU. This was done by introducing the **Policy of the National Resettlement Program** <sup>24</sup>, which is based on annual quotas. It also includes a draft of the pilot resettlement program for Burmese asylum seekers from Malaya.

In October 2008, a group of 23 Burmese refugees from Malaya was resettled to the Czech Republic. They belong to an ethnical group of refugees called Chin, which is a group with a UNHCR mandate of refugees. Upon their arrival, they were granted refugee status in the Czech Republic and they were taken to an asylum integration centre, where they were provided with integration programs in the length of several months. These Burmese refugees were chosen mainly due to problematic humanitarian situation that deteriorated by the recent natural disaster. This decision was also supported by the long term active involvement of the Czech Republic in the fight against the present political situation in Burma

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<sup>23</sup> Such an increase was caused by the newly introduced possibility to file repeated applications for international protection – it was the case of nearly 70 % of the total of applications lodged by Kazakh nationals.

<sup>24</sup> Government Resolution No. 745 from 27 June 2008 on the Concept of National Resettlement Programme and on the Resettlement of a group of Burmese asylum seekers from Malaya within the framework of a pilot resettlement programme

(Myanmar). This first group of 23 refugees was in February 2009 followed by the second group of 16 refugees.

#### 2.3.2.4 Stays for Medical Treatment - MEDEVAC Programme

As part of the framework of the programme for humanitarian evacuation of ill persons (Medical Evacuation – MEDEVAC), aid is provided primarily to seriously ill children from countries affected by war, where necessary medical care is not available. For the implementation of this programme in 2008, the Government of the Czech Republic provided<sup>25</sup> financial means of 5 mil. CZK. Within this programme, 13 patients from Afghanistan underwent medical treatment in the Czech Republic in 2008, while these were mainly children with congenital heart or orthopaedic diseases.

### 2.3.3 *Unaccompanied Minors and Other Vulnerable Groups*

#### 2.3.3.1 Unaccompanied Minors

The numbers of unaccompanied minors detected in the territory of the Czech Republic have been diminishing in the last few years. During 2008, several ministries and other bodies active in this area put a significant effort into the preparation of *Inter-ministerial Methodology (Guidelines/Informative Brochure) on Child Trafficking*, which was primarily to provide policemen with information on this topic, in order to ensure identification and proper treatment of these minors by the Police.

During 2008, the composition of unaccompanied minors placed in specialised facilities changed. The number of minor asylum seekers and refugees diminished,<sup>26</sup> while the number of other categories of minors increased. These were mainly children who have been living in the territory of the Czech Republic with their parents but were diagnosed with serious behavioural disorders, or children whose parents were detained.

#### 2.3.3.2 Disabled Foreign Nationals

The Alien Act was amended during the reference period of 2008 by Act No. 306/2008 Coll.,<sup>27</sup> which introduced the new terms of “*disability of third grade*” (originally *fully disabled*) and *disability pension for disability of third grade* (originally *disability support*

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<sup>25</sup> Government Resolution No. 494 from 28 April 2008

<sup>26</sup> In 2007, 56 unaccompanied minors - asylum seekers entered the asylum procedure, whereas in 2008, there were only 36 unaccompanied minors - asylum seekers applying for international protection.

<sup>27</sup> Act No. 306/2008 Coll., which amends Act No. 155/1995 Coll., on Pension Insurance, as amended, Act No. 582/1991 Coll., on the organization and implementation of the social security system, as amended, and some other laws.

*pension*). A juridical definition of these terms is one of the conditions for an EU citizen to be eligible for the permanent residence status earlier than after the “standard” 5 years of uninterrupted stay in the territory of the Czech Republic.

#### **2.3.4 Economic Migration**

Amendments of several laws<sup>28</sup> introduced a number of changes concerning the employment of foreigners and intermediation of jobs to foreigners by employment agencies. The approaching impact of the economic crisis was also largely influential.

##### **2.3.4.1 Green Card Scheme**

A new system of work permits was introduced. It combines a work permit with a residence permit in one single permit (card) received through only one application procedure, faster than the standard procedure. This new system of the so-called green cards has been in force since 1 January 2009. It reacts to the demands of Czech entrepreneurs who called for a flexible system of hiring foreigners to vacancies that are difficult to fill by Czech/EU citizens and their relatives.<sup>29</sup> A green card can be issued for all vacancies marked as “available for a Green Card” in the internet database of vacancies run by Labour offices. Access to green cards is limited, as only citizens of countries listed in the ministerial regulation<sup>30</sup> can apply for it. It may be issued to three categories of workers:

- A – to workers with a university degree or key personnel<sup>31</sup> - validity up to 3 years, renewable;
- B – to workers with jobs demanding at least vocational training - validity up to 2 years, renewable;
- C – to other workers - validity up to 2 years, non-renewable.

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<sup>28</sup> By Act No. 382/2008 Coll. that amends Act no. 435/2004 Coll. on employment and Act No. 326/1999 Coll. on the Residence of Foreigners in the Territory of the Czech Republic, and on changes of some other laws

<sup>29</sup> Vacancies that are available to foreigners willing to join this programme are determined either by the central evidence of Labour Offices (all vacancies that were registered with the Labour Office that have not been occupied by Czech/EU citizens or their relatives for more than 30 days) or they are the so-called “vacancies for key personnel”.

<sup>30</sup> Due to the economic crisis, at present, there are only 12 source countries on the list.

<sup>31</sup> Vacancies for so-called key personnel are marked as those by the Ministry of Industry and Trade. In general, they are available mainly to highly qualified foreigners with at least a university degree.

#### 2.3.4.2 Selection of Qualified Foreign Workers Project

The five-year pilot stage of the project entitled Selection of Qualified Foreign Workers began in July 2003 and ended in the summer of 2008. The project gradually expanded to a greater number of participants from more countries. A Government resolution dated 20 October 2008 transformed the pilot stage of this project into a permanent part of the Czech labour migration policy. The project aims at bringing qualified and highly qualified workers including their families who wish to settle and integrate well into the Czech society. It offers these workers an opportunity to apply for permanent residence within a shorter period of time – highly qualified workers may apply after 1,5 years, whereas the standard category of qualified workers may do so after 2,5 years of uninterrupted stay and work. The standard period is after 5 years of legal stay and work. Under this scheme workers also benefited from the “protective period“ that enabled them to stay in the territory and look for a new job in case they lose it. Even though starting from 1 January 2009, all foreigners can benefit from this protective period, participants of the green card project are entitled to more favourable conditions. The list of countries whose citizens can enter into the project is determined by the government. It is implemented by the Czech Ministry of Labour and Social Affairs in cooperation with the Czech Ministry of Foreign Affairs and the Czech Ministry of Interior.

On 31 December 2008, there were 1.281 participants of the project and to the same date, permanent residence permits under this scheme were granted to 303 participants.

#### 2.3.4.3 Changes in the Conditions of Employment of Foreigners

New measures aimed at facilitating the process of employment of foreigners were introduced on 1 January 2009. It was the result of a long-term effort within the policy-making process. The main changes were as follows:

- The obligation of employers to possess a permit to employ foreign workers was abolished. In the past, a two-tier system of employment of foreigners was applied. There were two different permits necessary to employ a foreigner – one for the employer to employ a foreigner and the second for a foreigner to become employed.
- The maximum possible validity of a work permit was extended to 2 years. Previously, a work permit could have been issued for a period of maximum 1 year.

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- Facilitation of employment to:
  - foreign students - they no longer need to apply for a work permit provided they prove their student status,
  - foreign graduates of Czech schools and universities - they no longer need to apply for a work permit,
  - under certain conditions also to relatives of foreigners who reside in the territory for the purpose of family reunification.

In order to increase the protection of foreign workers, the following legislative changes were adopted:

- The maximum penalty for illegal employment of foreigners was increased from 2 mil. CZK to 5 mil. CZK. This penalty could be inflicted upon either the employer or a work intermediary (employment agency).
- The so-called “protective period” was introduced. It enables foreigners under certain conditions<sup>32</sup> to remain in the territory for a period of 60 days and search for a new job if they lose it. Beforehand, when they lost their job, they also lost their purpose of stay and therefore, also their residence permit, and were to return back to the country of origin.
- With the aim to regulate more effectively the activities of employment agencies bringing foreigners to the Czech Republic (especially from Vietnam and Mongolia), a tougher regulation of their activities was introduced. Some of these agencies often tricked foreigners and/or exploited them. This is why conditions for granting permits to run such agencies were tightened. As a new measure, the MoI can express its reservations to particular agencies and the permission for such agency would then be rejected.

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<sup>32</sup> A foreigner can take advantage of the protective period if his/her employment was terminated for the specific reasons stipulated in the Labour Code. Simultaneously, he/she had to be either residing in the territory of the Czech Republic with a permit for the purpose of employment for the period of at least 1 year before losing the job; or, if he/she stayed in the territory of the Czech Republic with a permit for the purpose of employment for a period shorter than 1 year, but had also stayed continuously in the territory with a residence permit for other purposes for a period of at least 3 years prior to losing the job.

#### 2.3.4.4 Impact of the Economic Crisis

According to estimates from the end of 2008, the number of foreigners who will have lost their jobs within the first half of 2009 might reach as much as 68 thousand persons. This may seriously worsen the financial and existential situation of these foreigners, which might subsequently also worsen the security situation in the Czech Republic and it could also negatively affect the cohesion of the society in the Czech Republic.

In response to such estimates of an aggravated situation in the area of employment of foreigners, and also as a partial solution to the escalating problem of fraudulent employment agencies, the *Project of Voluntary Returns* began to be drafted in the end of 2008 in order to assist immigrants in their difficult situation.

#### 2.3.5 *Family Reunification*

Foreigners used to enjoy substantial advantages when marrying a Czech/EU/EEA/CH citizen or after declaring fatherhood of a Czech child. These family members were automatically granted the right to permanent residence in the Czech Republic. This right was often abused, especially after the country's accession to the EU. On 21 December 2007, an amendment of the Alien Act came into force and brought a change to this regulation – a family member of a Czech/EU/EEA/CH citizen can obtain permanent residence after 2 years of temporary stay in the territory, whereas at least one year has to be as family member. In humanitarian cases, permanent residence can still be granted without the condition of a continuous stay in the territory.

The above-mentioned amendment also extended the duty of an applicant for family reunification to give explanation to a state authority. Previously, the applicant had the right to express his/her opinion during the proceedings, but was not obliged to answer any questions. Based on the amendment, if the participant of proceedings refuses to answer, this act is considered as reason to reject the application.

#### 2.3.6 *Other Legal Migration*

A new residence status was introduced into Czech legislation - *Long-Term Residence Permit for the Purpose of Scientific Research*. It was established as a result of implementing

a relevant EU Directive concerning scientific research<sup>33</sup> and it came into force on 21 December 2007. An alien, who has signed a contract with a Czech research institution, can apply for this permit at a Czech embassy or at an office of the APS, if this person already has registered a long-term visa or another residence permit.

A total of 106 persons were admitted to the country for purposes of scientific research during 2008.

### **2.3.7 Integration**

#### **2.3.7.1 Integration Policy Development**

Supporting the integration of foreigners with a legal long-term residence history in the territory of the Czech Republic has been an integral part of active policy making of the Czech government since 1999. During 2000-2003, the agenda related to coordinating the implementation of the *Strategy for Integration of Foreign Nationals in the Territory of the Czech Republic* was carried out by the MoI. Afterwards, this agenda was shifted to the MoLSA in 2004, and starting from August 2008, it was moved back to the MoI<sup>34</sup>. The principal reason behind the last change was to consolidate immigration and integration policies, where one institution (DAMP of MoI) is in charge of both policy areas. The main priorities of the integration policy remained unchanged during 2008. Integration measures were aimed at four key areas: knowledge of the Czech language, immigrants' economic self-sufficiency, immigrants' orientation in society and community relations between immigrants and majority population.

However, with the shift of the integration agenda to the MoI, integration policy obtained some new objectives:

- application of effective integration measures,
- increase in the general education of all partakers involved in the process of integration,
- use of new tools – direct cooperation with municipalities, establishment of integration centres,

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<sup>33</sup> Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purpose of scientific research

<sup>34</sup> By Government Resolution No. 979 from 23 July 2008 on the transfer of some activities performed by the Ministry of Labour and Social Affairs to the Ministry of the Interior

- support of development of civil society – mainly on regional level in cooperation with regional integration centres.

The general aim of all integration policy activities is to prevent the formation of segregated migrant communities and their social exclusion and isolation.

#### 2.3.7.2 Knowledge of the Czech Language as a Prerequisite for Permanent Residence

The amendment of the Alien Act from 2007 introduced a new requirement for third-country nationals applying for permanent residence. Since 1 January 2009, third-country nationals have to prove their knowledge of the Czech language in order to be able to obtain a permanent residence permit<sup>35</sup> in the territory of the Czech Republic.

In connection with the introduction of this obligation, a new system of language examinations was established to enable foreigners to certify their knowledge of the Czech language. The setting of the system was intensively discussed among the ministries involved - MoI, MoLSA and Ministry of Education, Youth and Physical Education. An inter-ministerial working group was set up for this purpose. Its work resulted in drafting a document entitled “*System of tuition and examinations for foreigners as one of the conditions for granting a permanent residence permit*”, which was passed by the Czech Government on 14 May 2008.

The required level of knowledge of Czech for this purpose is set at the level of A1 on the basis of the Common European Framework of Reference for Languages (CEFRL). The fee for the first attempt of the exam of 1.500 CZK is covered for by the state in the form of a voucher. The obligation to provide language knowledge does not apply to citizens of the EU, Norway, Island, Lichtenstein, Switzerland and their family members. Some other specific groups of third country nationals<sup>36</sup> listed in Czech legislation are also exempt from this obligation.

An information campaign was launched with the aim to inform foreigners about this new obligation and about the system of exams, including the distribution of bilingual leaflets

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<sup>35</sup> In general, an alien is eligible to apply for a permanent residence permit after 5 years of continuous residence in the territory of the Czech Republic.

<sup>36</sup> These are third-country nationals who: have not reached 15 years of age; or have reached 60 years of age; or prove that he/she has a physical or mental disability that affects his/her ability to communicate; or prove that in the course of the last 20 years prior to the submission of the application for a permanent residence permit, he/she was a student at an elementary or secondary school with Czech as the language of instruction continuously for at least one academic year; or who request a permanent residence permit on special grounds such as on the grounds of humanitarian reasons, family reunification and in the interest of the Czech Republic.

in six foreign languages and Czech, creation of a website in Czech and English providing detailed information and a toll-free telephone information line.

#### 2.3.7.3 Emergent Integration Projects

Due to the increasing numbers of foreigners in the Czech Republic and regional problems arising from their dismissals during the economic crisis, the MoI initiated and financially supported so-called **emergent integration projects** in selected municipalities. The projects were launched by the municipal authorities of Plzeň and by a multicultural centre in České Budějovice. Negotiations were initiated also with Mladá Boleslav and Brno. Emergent projects carried out at local level represent a new tool of Czech integration. At present, it is considered of key importance to involve local and regional authorities into the implementation of migrant integration policy, as both domestic and foreign experience show that integration is put into life mainly at local level.

#### 2.3.7.4 Funding of Integration Measures

The MoI as national authority responsible for the **European Fund for Integration of Third-country Nationals** drafted the programme for 2007-2013, which was later approved by the European Commission. This plan was developed into two annual programs. The calls for both of them have been published. Measures aimed at a gradual creation of integration centres in all regions of the Czech Republic are of key importance within this fund. Relevant funding is also provided by the Czech Republic within the *Strategy for Integration of Foreign Nationals* for several ministries participating in activities related to integration.

### ***2.3.8 Citizenship and Naturalisation***

Based on a request by the Czech Government, the MoI prepared the Proposal of the Act on the Citizenship of the Czech Republic. The proposal was rejected by the Government for the third time in March 2008 and returned to the MoI for revisions. The revised proposal should be presented to the Government by the end of May 2009.

In 2008, 1.190 persons were granted Czech citizenship (were naturalized). Out of this number, 85 were persons previously granted asylum. The most frequent nationality of

naturalized persons was Ukraine (388), Kazakhstan (116) and Slovakia (103). In addition, 388 former Slovak nationals acquired Czech citizenship by declaration<sup>37</sup>.

### **2.3.9 *Illegal Immigration***

#### **2.3.9.1 Changes of Legislation**

The Alien Act was amended during the reference period of 2008 by *Act No. 129/2008 Coll. on the Enforcement of Protective Detention*<sup>38</sup>. This law introduced a new protective measure into the Penal Code – specialised centres called **protection detention centres** that are available to everyone, including foreigners, from 1 January 2009.

#### **2.3.9.2 Impact of the Entry into the Schengen area**

More than one year since the Czech Republic's accession into the Schengen area, it is clear that anxieties about an aggravation of the security situation, as well as about a surge of illegal migrants, have not been fulfilled. The situation of public order and internal security is stable and the latest development corresponds with trends initiated in the preceding period. Likewise, the Schengen enlargement has not brought an increase of crimes within the territory of the Czech Republic. Conversely, the crime rate within the Czech territory decreased and similar development has also been recorded in neighbouring countries.

To a certain extent, the absence of land border control had negative influence on the development in the area of production and distribution of addictive substances. The abolishment of border checks eased international distribution of drugs. This fact was projected into higher numbers of criminal activities related to drugs within the territory of the Czech Republic. As per drug trafficking, the development of the demand for these substances in other EU Member States plays a significant role.

As regards illegal migration, the situation after the Schengen enlargement has been stable, without any substantial changes. There is a clear shift from illicit activities connected to the facilitation of illegal border crossing towards the facilitation of illegal stay (e.g. bogus marriages). To a large extent, it is apparent that illegal migration is interconnected with other unlawful activities of organized crime, as well as with trafficking in human beings. Both illegal migration and organized crime have become more latent and harder to monitor.

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<sup>37</sup> A special way for persons who were citizens of former Czechoslovakia to acquire Czech citizenship after 31 December 1992 (split of Czechoslovakia).

<sup>38</sup> Act No. 129/2008 Coll. on the Enforcement of Protective Detention.

Due to Czech Republic's full entry into the Schengen area, definitions of illegal migration into the territory of the Czech Republic inevitably required radical changes, as the definition of terms such as borders etc. have changed together with the reality (new distinction between internal vs. external borders). That made statistics in this area in years prior to 2008 incomparable to those for 2008 and further.

In general, the entry of the Czech Republic is not bound to bring any distinct changes in the area of illegal migration from the security viewpoint. The overall report evaluating the situation was drafted by the Analytic Centre for Border Protection and Migration.

### 2.3.9.3 Fighting Illegal Migration

Measures aimed at fighting illegal migration are defined in the **Action Plan on the Fight against Illegal Migration**, a report about the steps taken in the past year and activities planned for the upcoming year within the framework of this plan, were approved by the Government.<sup>39</sup> It included the *Updated Schedule for the fulfilling of the Plan on the Fight Against Illegal Migration*. During the period of 2007-2008, a system of more effective coordination of bodies involved was set up. Furthermore, a total of 146 suggestions concerning foreigners, who could possibly provide information on illegal migration of criminal character, were obtained. Foreigners who cooperated with the relevant investigative bodies were also provided with counselling regarding the possibilities of their legal stay in the territory of the Czech Republic or voluntary return.<sup>40</sup> In the long-run, measures applied within the scope of this plan seem to be successful, which is also indicated by a permanent downtrend in numbers of uncovered cases of illegal migrants in the territory.

### **2.3.10 Actions against Human Trafficking**

The Czech Republic actively combats human trafficking within the framework of two specialised programs – *Program for the Support and Protection of Victims of Human Trafficking* and the *Program of Support for the Fight Against Illegal Migration*.

#### 2.3.10.1 Program for the Support and Protection of Victims of Human Trafficking

This Program has been working since 2003. In 2008, in order to make functioning of the interdisciplinary working group for the support and protection of victims of human trafficking more flexible, it was replaced by an inter-ministerial coordination group for the fight against

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<sup>39</sup> Resolution of the Czech Government No. 750 from 27 June 2008

<sup>40</sup> A total of 14 foreigners entered the program of voluntary returns in 2008.

trafficking. The interdisciplinary working group will only meet in specified situations requiring an adoption of measures related to the care for trafficking victims. The numbers of victims of human trafficking for the purpose of forced labour increased during 2008 (16 victims). As per this form of trafficking, the MoI supports various NGO projects. In 2008, these projects were aimed at prevention. The information campaign using the slogan “Say it!” continued from 2007 also during 2008. It targeted both the clients of prostitution and the victims of human trafficking for the purpose of sexual exploitation.

#### 2.3.10.2 Program of Support for the Fight against Illegal Migration

This program aims at developing effective cooperation between the persons (those, who have been the subject of an action to facilitate illegal migration), relevant authorities and other subjects involved in the process of detection, investigation and prevention of criminal activities related to facilitation of illegal migration. It simultaneously provides the third country nationals concerned with adequate protection and care. During the pilot stage of this programme during 2007 – 2008, a total of 146 instigations were received with regard to foreigners who may dispose of relevant information related to illegal immigration. During the year 2008 there were 9 third country nationals fully covered by the services of the Program, including accommodation, legal and social counselling and language courses. The programme has so far been evaluated as successful, while the final evaluation of this pilot stage of the programme will be carried out during 2009.

#### **2.3.11 Return Migration**

The Czech Republic runs on a regular basis the program of voluntary returns aimed at facilitating returns for unsuccessful asylum seekers (reimbursed by the MoI) and third-country nationals<sup>41</sup> who reside illegally in the territory of the Czech Republic.

As suggested in sub-section 2.3.4 entitled *Economic Migration*, the massive dismissals of foreign workers that started to take place already at the end of 2008 due to the economic crisis led to an intensive analysis of the situation and subsequently, in 2009, to the preparation of the state-funded *Project of Voluntary Returns*.

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<sup>41</sup> Effective since 21 December 2007, this second programme is determined by a new provision in §54 a) of the Alien Act and it provides under certain conditions reimbursement of up to a half of the total costs to be covered by the MoI.

### **3 IMPLEMENTATION OF EU LEGISLATION**

#### **3.1 *Transposition of EU Legislation in the Field of Migration and Asylum into National Law and Administrative Practice***

Concerning the transposition of EU legislation into the Alien Act and the Act on Asylum, none took place during the reference period of 2008. However, the EU legal acts listed below were transposed into the legislation of the Czech Republic already during preceding year but came into force during the reference year of 2008:

- **Council Regulation (EC) No 380/2008** of 18 April 2008 amending Regulation (EC) No.1030/2002 laying down a uniform format for residence permits for third-country nationals.

This regulation implies that the introduction of biometric facial image should be implemented into residence permits not later than within 2 years and fingerprints up to 3 years from the date of acceptance of technical specification. Both biometric features will be recorded in electronic form to a chip which will be part of a residence permit.

- **Council Directive 2005/85/EC** of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status

This Council Directive was transposed into the Czech legal framework by an amendment to the Act on Asylum through Act No. 379/2007 Coll.<sup>42</sup> The amendment came into force on 21 December 2007. Its objective is to regulate in procedural law the minimum standards on procedures for granting and withdrawing refugee status as laid down by the Council Directive. The aim is to gradually create a Common European Asylum System.

Among other changes, this principal change abolished the previously exercised time-limit of 2 years for a repeated filing of an application for international protection. In practise, it enables the applicant to lodge a new application for

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<sup>42</sup> Act No. 379/2007 Coll., amending Act No. 326/1999 Coll. on the Residence of Aliens in the Czech Republic and on the Amendment of Some Other Acts, as amended, Act No. 325/1999 Coll. on Asylum and on the Amendment of Act No. 283/1991 Coll. on the Police of the Czech Republic, as amended (the Act on Asylum), as amended, and Some Other Acts

international protection immediately after the previous negative decision on granting international protection had come into force.

- **Council Directive 2005/71/EC** of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research

This Council Directive was transposed into Czech legislation by an amendment of the Alien Act and other Acts through Act No. 379.<sup>43</sup> It introduced a new residence status to the Czech legislation - *Long-Term Residence Permit for the Purpose of Scientific Research*. It came into force on 21 December 2007.

- **Council Decision No. 435/2007/EC** of 25 June 2007 establishing the European Fund for the Integration of third-country nationals for the period of 2007 to 2013 as part of the General programme "Solidarity and Management of Migration Flows"

and

- **Decision No 574/2007/EC** of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period of 2007 to 2013 as part of the General programme "Solidarity and Management of Migration Flows"

and

- **Decision No 573/2007/EC** of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period of 2008 to 2013 as part of the General programme "Solidarity and Management of Migration Flows"

and

- **Decision No 575/2007/EC** of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period of 2008 to 2013 as part of the General programme "Solidarity and Management of Migration Flows"

In the Czech Republic, the responsibility for the management of all four funds falls under the DAMP of the MoI.

Preparatory works began during the course of 2008. In 2009, selected projects will be implemented within a yearly programme of the *European Refugee Fund 2008*

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<sup>43</sup> Act No. 379/2007 Coll., amending Act No. 326/1999 Coll. on the Residence of Aliens in the Czech Republic and on the Amendment of Some Other Acts, as amended, Act No. 325/1999 Coll. on Asylum and on the Amendment of Act No. 283/1991 Coll. on the Police of the Czech Republic, as amended (the Act on Asylum), as amended, and Some Other Acts

and the *European Fund for the Integration of Third-country Nationals 2007* and 2008. The call to submit applications for projects within the yearly program of the *European Return Fund 2008* and for the *European External Borders Fund 2007* and 2008 will be published.

Furthermore, the Czech Republic started the full application of the Schengen acquis on 21 December 2007. Certain provisions especially of the Alien Act governing the rules for issuing Schengen visas transposed earlier started to apply in practice.

### **3.2 Experience and Debates Regarding the Implementation of EU Legislation in the Area of Asylum and Immigration**

One of the most discussed topics in 2008 was the Czech Republic's entry into the Schengen area. The Czech Republic abolished border checks along its land national border with neighbouring countries on 21 December 2007. Generally, the topics of the relevant debates concerned the benefits, challenges and the impact of the entry on the Czech Republic. More specifically, the issues drawing most of the attention of media were the impact on criminal activities and rates, especially a possible increase in numbers of criminal offences and decrease of security, and traffic density at border crossing points.

These discussions were followed by disputes and critique of the tightening of police controls in locations neighbouring the Czech-Austrian and especially the Czech-German borders after the Czech Republic entered the Schengen area and border checks at land borders were abolished. Although these checks were presented as of purely preventive character and random by the German police, they targeted Czech citizens and were viewed in most of Czech media as excessive.

Czech media and NGOs also gave notable attention to the process of implementation of the Anti-discrimination Bill, which is remotely related to the issue of migration and integration of foreigners. Its implementation results from 11 relevant EU directives. On 16 May 2008, the president of the Czech Republic vetoed the proposal previously approved by both the Chamber of Deputies and the Senate of the Parliament of the Czech Republic. This event received great attention by the media.

## **Annex**

### **A 1.1 Methodology**

The Annual Policy Report 2008 for the Czech Republic is the first report in the series of Annual Policy Reports and therefore, in order to provide a coherent picture of migration trends, policy and institutional changes in the area of immigration, asylum and integration in the Czech Republic, the authors strived to cover the selected occurrences of development not only in the reference year of 2008 but at large also in the preceding year of 2007, so as to clarify the background of the 2008 development. This may be the cause of the slightly excessive extent of this report.

The report was drafted on the basis of information provided by the working version of the extensive **2008 Status Report on Migration in the Czech Republic**. This report is annually drafted by the DAMP of the MoI on the basis of information provided by a wide range of actors in field concerned – mainly other departments of the MoI, other relevant ministries and their organisations and the Police. The information obtained from this Report was transformed into more detailed information with the help of certain strategic documents focusing on specific issues such as the Strategy for the Integration of Foreign Nationals, Report on Migration in the Territory of the Czech Republic from the Point of view of the APS 2008, etc.

The analysis of press releases made by the MoI during 2008 and of relevant information and statements of major NGOs active in this field published on their websites was also drafted. The website of the Multicultural Centre in Prague at <http://www.migraceonline.cz> was particularly useful in providing this kind of information.

Sources used included:

- 2008 Status Report on Migration in the Czech Republic (working version)
- Government Resolution No. 183 from 16 February 2009 on the Report on the Implementation of the Strategy for the Integration of Foreign Nationals in 2008 and on Further Procedures
- websites of various NGOs or international organizations active in the field of migration, asylum and integration:

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- <http://www.migraceonline.cz> – website of the Multicultural Centre in Prague
- <http://www.iom.cz> – website of the International Organization for Migration – Prague
- <http://www.opu.cz> – website of the Organization for Aid to Refugees (OPU)
- <http://www.uprchlici.cz> – website of the Association for Migration and Integration
- <http://www.strada.cz> – website od La Strada
- websites run or supported by the state:
  - <http://www.mvcr.cz> – section “Useful information”
  - <http://www.euroskop.cz> – thorough information on the EU affairs
  - <http://www.imigracecz.org> – website of the Project Selection of Qualified Foreign Workers
  - <http://www.cizinci.cz> – website on the integration of foreigners established by the MoLSA
  - <http://cestina-pro-cizince.cz> – website operated under the Ministry of Education, Youth and Physical Education providing information on the system of examinations of the Czech language for foreigners as a requirement for receiving permanent residence
  - <http://www.czso.cz> – website of the Czech Statistical Office (ČSÚ)

*Significant developments* were defined as changes and events in the area of immigration, asylum, integration or anti-discrimination on the grounds of ethnic origin of following type:

- legislative changes of relevant extent;
- institutional changes of relevant extent;
- events that received media coverage and were discussed at least at expert level; and
- media and civil society discussions resulting in a manifestation of opinions of relevant extent.

When considering whether an occurrence is significant or not, the authors also carefully evaluated the extent of media coverage and the attention that NGOs have paid to such occurrence.

## **A 1.2 Terms and Definitions**

There were no technical terms or special concepts used in this study that require further clarification.

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