



# **Legal Migration Fitness Check**

Evidence base for practical  
implementation

Member State summary

**Czech Republic**

*Annex 2 CZ*

Written by ICF Consulting Services  
Limited

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## **LEGAL NOTICE**

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## Introduction

This document provides an overview of the legal and practical implementation of EU legal migration acquis in **Czech Republic**. The legal and practical implementation study is structured according to the eight steps – ‘phases’ of the migration process from the perspective of the migrant<sup>1</sup> for the following Directives:

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Researchers Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
National parallel scheme	Long-term family visa /Long-term family residency permit (Purpose of stay “family” vs. purpose of stay “family reunification” in the case of Permit issued based on the directive  Sec. 30 and 31 of Act on Stay of Foreigners no.		Long-term visa/long-term residency permit – purpose of stay: “Study other than based on the Directive”.  Long-term visa/long-term residency permit – purpose of stay: “Other”			
			Sec. 30, 31 and 64 of Act on Stay of Foreigners no. 326/1999 Coll., as amended			

<sup>1</sup> . See ref document (EU summary) Under each phase, the following aspects are examined  
**Legal transposition of the EU legal migration acquis:** including whether the MS has overall complied with the transposition of the relevant EU acquis in the respective phase and whether these non-compliance issues affect the practical application of the Directive;  
**Practical application of the EU legal migration acquis:** overview of the main application issues/problems arising in the MS per each of the migration phases;  
**Differences between national statuses and the EU legal migration acquis:** substantial differences at the level of legislation and practical implementation between the EU legal migration Directives and their national equivalents (where these exist).

326/1999 Coll., as amended	
Options implemented?	Pupil Trainee Volunteer

### **Main differences between EU statuses and the respective national parallel schemes**

Application for long-term family visa (national scheme) can be filed along with the application of the main applicant and it is usually approved at the same time like the main application. However, the application for long-term residence permit – family reunification (EU scheme) can be filed after 6 months of stay of the main applicant and or it takes longer than the procedure of the main applicant. Based on the long-term family visa (national scheme) is NOT possible to work. EU scheme includes free access to Czech labour market and the holder of this permit is entitled to work in the Czech Republic.

National scheme of student visa extends category of students and includes high school students who are not part of exchange programs and for remunerated trainees; university students studying in the non-accredited study program (Accreditation is provided by Ministry of Education) (e.g. study based on international grants); students of language schools and language courses; students of cognitive and educational courses. There are not any significant differences between the parallel national scheme and the scheme based on the SD.

## **1 Pre-application phase**

### **1.1 Legal transposition of the EU legal migration acquis**

The Czech Republic has complied with the legal transposition of the EU legal migration acquis related to seeking information by third-country nationals and their family members on the application procedure, and there are not any major non-compliance issues in this phase.

### **1.2 Practical application of the EU legal migration acquis**

Generally, it is possible to find detailed information about particular permits on the website of the Ministry of Interior Affairs in Czech and English language, and on the website of particular diplomatic missions, even at local language. The main challenge is that the information provided on the websites is very general and it does not include answers for specific cases. For example, all official documents supporting the applications (e.g. diploma, criminal record, vital records) must be legalized (with Apostille or super legalization) and translated by a sworn translator into Czech language, but there is no information provided about how it is possible to arrange the legalization and translation in the given country of application. Furthermore, each diplomatic mission can have other specific requirements.

In addition, it is not possible to consult specific cases with the authorities upon a request sent via e-mail or via phone call. Such requests are replied in a generic way and the reply contains the same information as provided on the websites. Usually, it is not possible to communicate with the relevant authorities in other language than Czech.

Any of the above-mentioned issues are not infringement of the directives and the directives do not complicate the migration process in this phase.

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Research Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
Languages	National language(s) English French Russian Arabic Other					
The information is easy to find*	1	1	2	1	1	1

\* 1: Strongly agree; 2: Agree; 3: Neither agree/nor disagree; 4. Disagree; 5. Strongly disagree

Information can be found on the following aspects of the application procedure:

Application procedure	Conditions for admission	Entry requirements (e.g. visa etc.)	Cost of application	Applicable deadlines	Rights upon admission	Any differences between the Directives
Yes	Yes	Yes	Yes	Yes	Yes	No

### Information upon request

Information is provided upon request both in third countries and in the country of destination. In third countries it is operated by the Ministry of the Interior of the Czech Republic. While in the country of destination information it's provided through consular sections of the diplomatic missions under the governance of the Ministry of Foreign Affairs.

Information desks which is located at every Immigration Authority office, hotline or information e-mail service provide general information and replies to general questions only (e.g. what are requirements for application, if the appointment is needed, etc.). If the reply related to a specific case is needed, it is necessary to send written request on status of the application. Immigration Authority has 30 days to reply.

### **1.3 Differences between national statuses and the EU legal migration acquis**

There is no substantial difference at the level of legislation between the Directives and the national equivalents in this phase. The pre-application phase is the same for all kind of permits.

The conditions for national equivalent statuses offer the same rights and conditions in this phase.

The various information sources available do not specifically differentiate between residency permits based on Directives and national statuses. The information channels have been created to provide comprehensive information for any applicant seeking information.

## **2 Preparation phase**

### **2.1 Legal transposition of the EU legal migration acquis**

Generally, the Czech Republic has complied with the legal transposition of the EU legal migration acquis in relation to the preparation phase of applications, and there are no major non-compliance issues. There are few partial non-conformity issues only. There are as follows:

**Regarding Family Reunification Directive**, there may be an issue as regards the implementation of Article 7 of the Family Reunification Directive because the Czech national regulation requires proving the income threshold as an absolute amount, while based on the Directive, the Member state should evaluate this amount in each particular case. However, this is not eventually an issue in the practical application, because the required amounts are not high.

Furthermore, as regards Article 15 (3) of the Family Reunification Directive, Czech national regulation does not contain any provision that would entitle the holder of a long-term residence permit for the purpose of family reunification to apply for a long-term residence permit for another purpose in the event of particularly **difficult circumstances** as it is stipulated in the last sentence of the provision 15(3) of the Family Reunification Directive. But this does not affect the validity of practical application of the Family Reunification Directive.

**Regarding the Students Directive**, there is partial non-conformity related to Article 7 of the Students Directive. Article 7(2) of the Students Directive is not applicable in the Czech Republic: the applicant has to submit a document certifying that he/she has sufficient health insurance.

**Regarding the Long-term residents Directive**, there is partial non-conformity related to Article 5 paragraph 1, subparagraph c). According to the Czech legislation, a specified proof of regular monthly income is required differently than the Directive and the European Court of Justice specifies.

There are no other non-conformity issues identified.

### **2.2 Practical application of the EU legal migration acquis**

Firstly, it is not possible to consult on specific cases with the authorities upon a request via e-mail or via phone call. Such request is replied in a generic way and the reply contains the same information as provided on the websites. Usually, it is not possible to communicate with the relevant authorities in other language than Czech.

Furthermore, the application forms for particular permits are not easy to understand and it is quite complicated to complete them. There are no instructions provided on how to complete them.

Finally, it is important to say that the biggest issue of this phase is the preparation of documents which are part of the applications. All applications should be filed in person

and all documents should be filed in a hard copy. The official documents (e.g. diploma, criminal record, marriage certificate) should be legalized and translated by a sworn translator into Czech language. This step can be very complicated and time consuming in some countries, and it represents the most challenging part of the immigration procedure.

Any of the above-mentioned issues are not infringement of the directives and the directives do not complicate the migration process in this phase.

For those who apply to reside for the purpose of work, there is a single application procedure in compliance with Single Permit Directive. However the applicant is asked to complete 2 applications forms, one for the requested permit and the other for the special entry visa based on which the applicant can arrive to the Czech Republic and to collect the single permit at local Immigration Authority. This special visa is issued automatically when single permit application is approved. It is not another (separate) procedure.

Ease of the application procedure:

<b>Step</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
The information that applicants need to complete is not extensive	4	4	4	4	4	4
The application form is user-friendly	5	5	5	5	5	5

Key information/ documents required:

<b>Type of information</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>
Family ties	Yes, T, C	No	No	No	No
Continuous legal residence	Yes	No	No	No	No
Sufficient resources	Yes, T, C	Yes, T, C	Yes, T, C (trainees, students)	No	No
Accommodation/Address in territory	Yes, C	Yes, C	Yes, C	Yes, C	Yes, C
Sickness insurance	Yes, T, C	Yes, T, C	Yes, T, C	Yes, T, C	Yes, T, C
Work contract (for RD host agreement)	No	No	No	Yes, T, C	Yes, T, C
Minimum salary threshold	No	No	No	No	Yes
Professional qualifications	No	No	No	No	Yes
(Pre-) Integration measures	No	No	No	No	No
Pre-departure	No	No	No	No	No



conditions					
Proof no threat to public	Yes, T, C	Yes, T, C	Yes, T, C	Yes, T, C	Yes, T, C
Medical examination certificate	Yes, T, C	Yes, T, C	Yes, T, C	Yes, T, C	Yes, T, C
Valid travel document	Yes, C, R	Yes, C, R	Yes, C, R	Yes, C, R	Yes, C, R
Entry visa	Yes	No	Yes	Yes	Yes
Other	Yes	Yes	Yes	Yes	Yes

Note: T = Translation; C = Certified, R = Requirement, i.e. without this proof the application cannot be lodged.

### 2.3 Differences between national statuses and the EU legal migration acquis

There is no substantial difference at the level of legislation between the Directives and the national equivalents in this phase. The pre-application phase is the same for all kind of permits.

The conditions for national equivalent statuses offer the same rights and conditions.

## 3 Application phase

### 3.1 Legal transposition of the EU legal migration acquis

The Czech Republic has complied with the legal transposition of the EU legal migration acquis in relation to the application phase, and there are no compliance issues identified.

The Czech Republic has adopted almost all optional articles except Art. 10 (4) of the Blue Card Directive where it is possible, in some cases, to submit the Blue Card application on the territory of the Czech Republic.

### 3.2 Practical application of the EU legal migration acquis

The third-country nationals must lodge their application a) at the diplomatic mission of the Czech Republic in the third country or b) on the territory of the Czech Republic in case they are already residing in the Czech Republic, or in case of specific applications defined by the Act on Stay of Foreigners.

Submission at the diplomatic mission in the third country: Applicant's presence and appointment reservation are required. Conditions for booking an appointment might differ and are published on the website of the specific diplomatic mission. The appointment for application submission shall be scheduled via e-mail and by phone. The application always must be submitted by the applicant in person at the diplomatic mission.

Submission on the territory of the Czech Republic: Applicant's presence is required. The appointment for application submission can be scheduled by phone only. In case the applicant does not have an appointment scheduled, it is possible to pass a live queue.

Most of the challenges in the application phase arise from:

Lack of appointments at the Czech Embassies where the first permit applications are supposed to be submitted (except special cases defined by the Act no. 326/1999 Coll,

as amended, on Stay of Foreigners). In some countries, it is almost impossible to arrange for an appointment for submission of such application or the waiting time is long.

Lack of knowledge and training of the visa officers – it often happens that different Embassies create their own requirements on the type of documents to be filed along with the application, which can result into unjustified rejection of the applicant (not accepting the application).

Such challenges may rise concerns as regards the Family Reunification Directive.

The TCN has 2 options. He/she can lodge the application at the diplomatic mission of the Czech Republic in the third country. If the TCN resides in the Czech Republic or a specific procedure allows it the application can be submitted on the territory of the Czech Republic. Two authorities are involved in the process: the diplomatic mission, under the competence of Ministry of Foreign Affairs, and the Department for Asylum and Migration Policy, under the governance of the Ministry of the Interior.

For notifying the applicant one administrative act is issued. In case of a positive response the TCN is informed by e-mail, by phone or in writing. When the answer is negative the communication, including the reasons of rejection, is issued in a written form in the official language (Czech). According to Czech legislation employer is not allowed to act as the main applicant. Moreover, the applicant can appeal against a negative decision. In this case the Ministry of Interior and its departments analyze the appeal and take the final decision. If the third-country national and/or his/her family are based in the third country, the appeal can be lodged at the diplomatic. The concept of administrative silence doesn't exist in the immigration regulation in the Czech Republic.

<b>Directive</b>	<b>General</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
Application from third country (Q3a)	Yes/ No	Add if different					
Permit received in third country	No						
Number of authorities involved in the application	2						
Number of authorities involved in the issuance of the residence permit	2						
Application modalities	In person						
Existence of a standard application form for all statuses	No						
Language of the application form	National language(						

		s)					
		English					
		Russian					
Fees charged		CZK 2500 or 2500+1 000 in case of applying from abroad	CZK 2500 or 2500+1 000 in case of applying from abroad	0	0	CZK 2500 or 2500+1 000 in case of applying from abroad	CZK 2500 or 2500+1 000 in case of applying from abroad
Other fees charged?	No						
Fees charged for permit issuance	No						
Fees charged for renewal / replacement of the permit	CZK 2500						

The processing times are as follows:

Directive	FRD	LTR	SD	RD	BCD	SPD
Processing time /deadlines (according to law)	270 days	120 days	60 days	60 days	90 days	60 days
Processing time (in practice)	95 days	90 days	60 days	60 days	90 days	60 days

### **3.3 Differences between national statuses and the EU legal migration acquis**

There is no substantial difference at the level of legislation between the Directives and the national equivalents in this phase. The application phase is the same for all kind of permits.

The conditions for national equivalent statuses offer the same rights and conditions.

## **4 Entry and travel phase**

### **4.1 Legal transposition of the EU legal migration acquis**

The Czech Republic has complied with the legal transposition of the EU legal migration acquis in relation to the entry and travel phase, and there are no compliance issues identified.

The Czech Republic has adopted all optional articles of the Directives concerning this stage.

### **4.2 Practical application of the EU legal migration acquis**

In case of the Family Reunification Directive, Long-Term Residents Directive, Blue Card Directive and Single Permit Directive, the third-country national is supposed to

collect an entry visa from the Embassy where he/she has submitted the residency permit application. Based on the entry visa, the third-country national can travel to the Czech Republic to collect the respective residency permit.

The entry visas issued by the Czech Republic (Czech Embassies abroad) has in the column "Valid for" written "CZECH REPUBLIC", even though the visas are valid within Schengen area. This can create a problem for the third-country national while transiting through other Schengen Member States to the final destination as the border crossing officers might doubt validity of the visa in the other Schengen Member State. As the third-country national is not yet in the possession of a residence permit, the Member State issues a visa and but has not put a specific timeframe for issuing the latter.

In the case of Single Permit and Blue Card, the Employer cannot act as the main applicant according to Czech legislation. The main applicant is strictly the third-country national only.

The Member State allows third country nationals who hold a valid permit and valid travel document to enter and re-enter their national territory only on the basis of the permit.

The third-country national is allowed to travel to other Schengen Member States only on the basis of the permit and valid travel document.

The Member State does not impose specific entry requirements to third-country nationals of a visa free country.

Upon arrival, third-country nationals are required to register with the local authority.

#### **4.3 Differences between national statuses and the EU legal migration acquis**

There is no substantial difference at the level of legislation between the Directives and the national equivalents in this phase. The Entry and travel phase is the same for all kind of permits.

The conditions for national equivalent statuses offer the same rights and conditions.

### **5 Post-application phase**

#### **5.1 Legal transposition of the EU legal migration acquis**

Generally, the Czech Republic has complied with the legal transposition of the EU legal migration acquis in relation to post-application phase, and there are no major non-compliance issues identified. There are few partial non-conformity issues only. There are as follows:

**Regarding Students Directive**, there is a conformity issue related to Article 14 and 15 of the Students Directive, as the Act no. 326/1999 Coll, as amended, on Stay of Foreigners stipulates that the residency permit for unremunerated trainees and volunteers is issued for the duration of the training/volunteering services, which can be longer than 1 year; on the other hand, the Directive limits the validity of the permit to maximum one year.

The Czech Republic has adopted almost all optional articles of the Directives concerning this stage. The provision the Czech Republic chose not to implement is Art. 13 of Long-Term Residents Directive.

There are no other conformity issues.

#### **5.2 Practical application of the EU legal migration acquis**

Major challenges in this phase arise with the actual finalization of the process of obtaining the residency permit - provision of the biometrical data and collection of the residency card. The Immigration Authority personnel very often does not speak any

foreign languages and the third-country national might be forced to bring official interpreter at his/her own cost.

We do not consider the non-conformity issue of the Art. 14 and 15 of Students Directive to be infringement of the Directive, as the national provision is more beneficial to the third-country nationals and it is in line with the sense of the Act no. 326/1999 Coll, as amended, on Stay of Foreigners, which in general stipulates that residency permits are issued for the duration of the third-country nationals' purpose of stay, or up to 2 years.

<b>Directive</b>	<b>FD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
Minimal validity of the first permit	3 months	3 months	12 months	3 months	3 months	3 months
Maximum validity of first permit	24 months	24 months	12 months	24 months	24 months	24 months
Minimum validity of permit renewal	NI	NI	NI	NI	NI	NI
Maximum validity of permit renewal	24 months	24 months	24 months	24 months	24 months	24 months

The Member State does not have a set timeframe to deliver the permit following the notification of the decision.

### **5.3 Differences between national statuses and the EU legal migration acquis**

There is no substantial difference at the level of legislation between the Directives and the national equivalents in this phase. The post-application phase is the same for all kind of permits.

Due to the non-conformity issue specified above, the conditions for national equivalent statuses offer the same rights and conditions.

## **6 Residency phase**

### **6.1 Legal transposition of the EU legal migration acquis**

The Czech Republic has complied with the legal transposition of the EU legal migration acquis in relation to the residency phase, and there are no non-compliance issues identified.

The Czech Republic has implemented some of the optional articles. Articles where the Czech Republic opted out from the implementation are:

Art. 14 (2), Art. 14 (3), Art. 16 (3) (b) and (c) and Art. 16 (4) of the Family Reunification Directive;

Art. 5 (2), Art. 11 (3) (a), Art. 11 (4), Art. 11 (5) of the Long-Term Residents Directive;

Art. 12 (2) (a) and (b) and Art. 17 (3) of the Students Directive;

Art. 8 (6), Art. 10 (1), Art. 10 (2) of the Researchers Directive;

Art. 14 (2) (a) and (b) and Art. 14 (4) of the Blue Card Directive;

Art. 12 of the Single Permit Directive.

Opting out from the implementation of the above articles does not present any non-compliance or non-conformity issues.

Furthermore, by opting out from the implementation of the various optional articles, the Czech Republic has created a more favourable legal environment for the third-country nationals as mostly provisions restricting the residency have not been implemented.

## **6.2 Practical application of the EU legal migration acquis**

Major challenges during the residency phase come with the extension of the residency permits as the Act No. 326/1999 Coll., as amended, on Stay of Foreigners is very complicated for a non-lawyers/non-experts due to many amendments introduced since the law has been adopted in the year of 1999.

Third-country nationals are usually lost in the various provisions and when they seek information at the Immigration Authority, they often receive misleading/incorrect information from the Immigration Authority officers, which can lead to the TCN leaving the country.

Not keeping deadlines for extension of the various residence permits by the Authorities is a pressing issue impeding the residency of third-country nationals in the Czech Republic.

### **a. Use of the permit:**

The residence permit is issued using the format as set out in Regulation (EC) No 1030/2002 for residence permits. The permit has a constitutive value. It gives third-country nationals to right to move freely on the Member State's territory.

The Member State allows third-country nationals holding residence permits from other Member States applying the Schengen acquis (together with a valid travel document) to enter and move freely within its territory.

The permit is required as a legal document for the following other administrative procedures:

<b>Access to education</b>	<b>Access to healthcare</b>	<b>Registration with PES</b>	<b>Fixed telephone subscription</b>	<b>Utility subscription</b>	<b>Open a bank account</b>	<b>Social security registration</b>
X		X	X	X	X	X

### **b. Renewals of the permit:**

National or EU law imposes a direct or indirect requirement to renew a valid residence document.

The renewal process follows a single procedure, involving one than one authority. The same authority is involved as in the first application procedure.

### **c. Change of status and naturalisation**

Status changes are possible for all statuses. The procedure for requesting a status change is different from the first application procedure. In order to obtain citizenship, the third-country nationals need to comply with the following conditions:

- 1) To have a continuous permanent residence in the Czech Republic at least for 5 years or hold permanent residency and overall reside at least 10 years on the territory. Some exceptions exist.
- 2) The applicant really lives on the Czech territory. This may not be required if the applicant's wife/husband or partner is Czech or if the applicant is under 18 of age.
- 3) Clean criminal record
- 4) Knowledge of the Czech Republic. Some exceptions exist.
- 5) Knowledge of Czech culture and history
- 6) Observance of legal regulation
- 7) Sufficient income
- 8) Not making use of social security allowance system

#### **d. Employment rights on the basis of the permit**

In general, a work-related permit is linked to a certain employer. When changing employer, the third-country national needs to request a change to the permit.

#### **e. Equal treatment**

There are no restrictions to equal treatment.

With regard to identifying labour exploitation, the Member State does not have a mechanism in place to monitor the exploitation of third-country nationals

#### **f. Integration:**

Specific integration procedures and conditions do not apply to third-country nationals once established on the territory of the Member State.

### **6.3 Differences between national statuses and the EU legal migration acquis**

The substantial difference can be found in comparison of the Family Reunification Directive and Students Directive and its national equivalents – the statuses according to the Directives offer free entrance to the Czech labour market, whereas the national statuses prohibit economic activity beyond the approved purpose of stay.

## **7 Intra-EU mobility phase**

### **7.1 Legal transposition of the EU legal migration acquis**

Generally, the Czech Republic has complied with the legal transposition of the EU legal migration acquis related to the intra-EU mobility phase, and there are no non-compliance or non-conformity issues identified.

### **7.2 Practical application of the EU legal migration acquis**

There are no challenges in application in this migration phase. However, the intra-EU mobility is allowed to Blue Card holders and long-term resident holders (based on Long-Term Residency) only. The holders of other permits have the same position as third-country nationals who are coming to the Czech Republic from a country outside of EU.

For short-term mobility, the Member State:

- Requires the third-country national to notify
- Does not require the third-country national to ask for authorisation.

### **7.3 Differences between national statuses and the EU legal migration acquis**

There is no substantial difference at the level of legislation between the Directives and the national equivalents in this phase.

The holders of national equivalent statuses permits have the same position as third-country nationals who are coming to the Czech Republic from a country outside of EU.

## **8 End of legal stay / leaving the EU phase**

### **8.1 Legal transposition of the EU legal migration acquis**

The Czech Republic has complied with the legal transposition of the EU legal migration acquis in relation to the end of legal stay (leaving the EU) phase, and there are no major non-compliance issues identified in this phase.

### **8.2 Practical application of the EU legal migration acquis**

Firstly, the portability of Social Security benefits is not large and it is applicable to pension benefit only. Pension benefit can be transferable (once the retirement age given by the Czech legislation is reached) if third-country national participated (in total): i) in the Czech social security system; or ii) in social security system of other member country; or iii) in social security system of country with which the Czech Republic concluded totalization agreement; for necessary insurance period (i.e. 33 years if he/she retires in 2017, 34 years if he/she retires in 2018, 35 years if he/she retires after 2018).

Furthermore, information about the portability of Social Security benefits is difficult to find and most information is provided in Czech language only. If specific information is needed, the officer of Social Security Authority is not able to reply in other language than Czech.

Finally, there are no measures or a scheme in place to allow circular migration in the Czech Republic.

Any of the above-mentioned issues are not infringement of the directives and the directives do not complicate the migration process in this phase.

There are specific procedures in place for third-country nationals who choose to leave the Member States. These include:

- De-registration from national / local registers

The Member State allows third-country nationals to export social security benefits, in particular the pension benefit. The pension benefit can be transferable if certain conditions are fulfilled.

Information on the portability of social security benefits is not easy to find and clear.

A third-country national residing in the Member State is allowed to be absent from the territory. The absence of third-country nationals is not monitored by the Member State. However, Member State can cancel the long-term residency permit, if it realizes that the third-country national does not meet the purpose for which the residency permit was issued.

The Member State does not have measures or a scheme in place to allow circular migration.

The deliberate overstay of the duration of the residence permit can cause that third-country national should be obliged to leave Czech Republic, to pay a penalty up to CZK 5,000, and ban



entry to the EU territory for a period up to 3 years or up to 5 years (in the case of illegal employment).

### **8.3 Differences between national statuses and the EU legal migration acquis**

There is no substantial difference in the level of legislation between the Directives and the national equivalents in this phase.

The conditions for national equivalent statuses offer the same rights and conditions.

## **9 Main findings and conclusions – state of practical implementation of EU legal migration legislation in the Member State**

Out of the Directives the Czech Republic has already implemented (Family Reunification Directive, Long-Term Residents Directive, Students Directive, Researchers Directive, Blue Card Directive, Single Permit Directive); there are no major compliance/conformity issues identified throughout the various phases.

While choosing to implement the optional articles of the Directives, the Czech Republic tends to choose those in favour of the third-country nationals. In case a more favourable national legislation is available and is compatible with the Directive, the Czech Republic chooses not to implement the optional articles.

Quicker processing times of the applications seems not to be the strong side of the Czech Republic, as in practice, it takes the maximum processing time allowed by the Directive, which is implemented into the national legislation.

Major practical challenges do not arise out of implementation of the Directives, but from:

- a) the lack of knowledge of the Consular/Immigration Authority officers;
- b) the lack of workforce at the Immigration Authority, causing delays in the application process and usually breaches of the processing deadlines (mainly in Prague, where most of the third-country nationals reside).

In terms of the Immigration Authority officers, there is a need to better equip them with language skills, as they very often do not speak any foreign language.

## Annex 1 References

### **CONTEXTUAL ANALYSIS**

#### **Department of Asylum and Migration Policy, Ministry of Interior Affairs (2015): *Zpráva o situaci v oblasti migrace a integrace cizinců na území České republiky***

This report contains objective information about the status of legal and illegal migration, international protection, the integration of foreigners, visa and readmission policy and the Schengen cooperation, informed of any changes in the relevant national and European legislation, negotiations in the structures of the European Union in the field of asylum and migration, international cooperation in this area, humanitarian projects, projects of foreign development aid and migration projects, projects aimed at specific categories of foreigners implemented by the Ministry of Interior and other related topics for the previous year.

Web source: <http://www.mvcr.cz/clanek/migracni-a-azylova-politika-ceske-republiky-470144.aspx?q=Y2hudW09NA%3D%3D>

#### **Ministry of Interior Affairs**

General informations, sources and news from the area of migration, asylum and integration of foreigners.

Web source : <http://www.mvcr.cz/azyl-migrace-a-integrace.aspx>

#### **Cases and Standpoints of the Ombudsman on Matters of Foreigners**

The Public Defender of Rights (Ombudsman) regularly publishes the results of investigations and standpoints in matters regarding foreigners.

Web source: [http://www.ochrance.cz/trideni-dle-oblasti/trideni-dle-oblasti-dokumenty-ke-stazeni/?tx\\_odlistdocument\\_pi1%5Barea%5D=11&tx\\_odlistdocument\\_pi1%5Bsubmit%5D.x=17&tx\\_odlistdocument\\_pi1%5Bsubmit%5D.y=0&id=101595](http://www.ochrance.cz/trideni-dle-oblasti/trideni-dle-oblasti-dokumenty-ke-stazeni/?tx_odlistdocument_pi1%5Barea%5D=11&tx_odlistdocument_pi1%5Bsubmit%5D.x=17&tx_odlistdocument_pi1%5Bsubmit%5D.y=0&id=101595)

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#### **Čížinský, P., Čech Valentová, E., Hradečná P., Holíková, K., Jelínková, M., *Foreign Employees on Czech Labour Market and other selected EU countries: Praha: Simi, 2014***

Comparative survey of the migration policy of the Czech Republic, Austria, Germany and the UK.

Web source: [link](#)

#### **Websites:**

Research overview on MigrationOnline.cz website - <http://migraceonline.cz>

Research overview on Cizinci.cz website - <http://cizinci.cz/cs/>

**Websites for statistics:**

Czech Statistical Office: <https://www.czso.cz/csu/cizinci/cizinci-pocet-cizincu>

Ministry of Interior Affairs, Amounts of issued permit for relevant years:

<http://www.mvcr.cz/clanek/cizinci-s-povolenym-pobytem.aspx>

**PRACTICAL IMPLEMENTATION OF THE DIRECTIVES**

- **ČIŽINSKÝ, Pavel [et al], *Cizinecké právo (Foreigners Law)*, Prague: Linde, 2012**
- *Professional publication which describes various legal questions related to foreigners living in the Czech Republic in their every day life. It describes their rights and obligations related to the stay, employment and making business. It also covers questions related health insurance and social security.*
- Web source: <https://vufind.mzk.cz/Record/MZK01-001283242>
  
- **VYŠKOVSKÁ, Magdaléna. *Cizinci a daně: zdaňování příjmů fyzických osob - cizích státních příslušníků v České republice. 4., rozšířené vydání, doplněné o judikaturu, závěry koordinačních výborů, nová nařízení o koordinaci systémů sociálního zabezpečení v EU. Praha: Wolters Kluwer, 2016***
- *Publication about taxation of foreigners in the Czech Republic. Their situation is analyzed from the perspective of employment, Foreigner, civil and commercial law, in terms of domestic law on income taxes and double tax treaties.*
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