

7. ILLEGAL ENTRY AND STAY OF PERSONS ON THE TERRITORY OF THE CR

Before 2008, under “**Illegal migration across the state border of the Czech Republic**” cases of illegal crossings of the state border of the Czech Republic (CR) by both foreigners and citizens of the Czech Republic were understood. It included revealed illegal entries of foreigners to the territory of the CR as well as exits of foreigners from the CR in an illegal way or proved attempts to illegally cross the state border. For example, cases when a foreigner used false travel documents, crossings of the state border with participation of human traffickers, or cases of persons found in a hiding place in the means of transport were registered. Parts of statistics were also attempts of foreigners to get in the territory of the CR, despite a court of law’s sentence of expulsion or a final and conclusive decision on administrative expulsion imposed on them was still in force.

Also before 2008, the category of “**Illegal migration – violation of the residence regime**” included revealed illegal stays/residence of foreigners in the territory of the Czech Republic either inland or at the state border crossings while leaving the Czech Republic.

After the CR joined the Schengen free movement area, it was necessary to fundamentally change the concept of definitions of illegal migration in the territory of the Czech Republic. Owing to this change it is not possible to compare statistics of illegal migration in 2008 with the previous years. Therefore, the year 2008 can be seen as year zero in the area of illegal migration.

From 2008 onwards, two basic categories of illegal migration in the Czech Republic have been observed:

1. Illegal crossing of the external Schengen border of the Czech Republic – the category includes persons who have illegally crossed or attempted to cross illegally the external Schengen border (international airport) of the Czech Republic. In this context, persons mean foreigners and citizens of the CR.
2. Illegal stay – the category includes foreigners revealed in the territory of the Czech Republic including transit areas at international airports who are violating conditions required by law regulating the stay of foreigners. Persons in this category mean foreigners.

Ad 1 – since 2008, the border control only has been made at the external Schengen borders (air borders, i.e. at the international airports). The state borders with the neighbouring states have become an internal Schengen border and thus the data referring to illegal migration across the state border cannot be compared.

Ad 2 – since 2008, the category of illegal stay has been including persons who have entered the territory of the Czech Republic from a neighbouring state (i.e. across the internal Schengen border) without requisites necessary for the stay in the Czech Republic; however, in the previous years, namely these persons were included into the category of illegal migration across the state border of the CR – illegal entry. The data referring to illegal stay thus cannot be strictly compared with the data from previous years.

Administrative expulsion

Administrative expulsion (Section 118 of the Act No 326/1999 Sb, on the Residence of Foreigners in the Territory of the Czech Republic and amending certain acts, as subsequently amended) is termination of stay/residence of a foreigner in the territory of the CR or in the territory of Member States of the European Union, which is related to determination of a time limit for leaving the territory of the CR or Member States of the EU and a period, during which the foreigner is not allowed to enter the territory of the Czech Republic or Member States of the EU. The period, for which a foreigner is not allowed to enter the territory of the CR or Member States of the European Union is determined by the police in a decision on administrative expulsion of a foreigner. In justified cases, a border crossing for leaving the territory of Member States of the European Union can be specified by the decision.

Based on a final and conclusive decision on administrative expulsion, the Directorate of Foreign Police Service declare a foreigner an undesirable person and they include the foreigner in the register of undesirable people (Section 154 (3) of the Act No 326/1999 Sb, on the Residence of

Foreigners in the Territory of the Czech Republic and amending certain acts, as subsequently amended). The register of undesirable people is part of the foreigner information system, which is a source for statistical data provided in the Chapter 7, Table 7-5 Development of the number of expulsions from the CR and Table 7-6 Expulsion from the Czech Republic by selected citizenship.

Judiciary expulsion (expulsion punishment; banishment) – see the methodology of Chapter 5 – Crime of foreigners.

The court may (Section 80 of the Act No 40/2009 Sb, the Criminal Code) impose on an offender (perpetrator) who is not a citizen of the Czech Republic a judiciary expulsion (expulsion punishment; sentence of banishment) from the territory of the Czech Republic, namely as a separate sentence or concurrently with another sentence provided that the security of people or property or any other public interest requires so. The judiciary expulsion (expulsion punishment; sentence of banishment) can be imposed as a separate sentence provided that imposition of another sentence is not necessary with respect to the nature and gravity of the perpetrated crime and the person and circumstances (personal situation) of the perpetrator/offender.

Based on a final and conclusive decision of a court on an expulsion sentence imposed, the Directorate of Foreign Police Service declare a foreigner an undesirable person and they include the foreigner in the register of undesirable people (Section 154 (3) of the Act No 326/1999 Sb, on the Residence of Foreigners in the Territory of the Czech Republic and amending certain acts, as subsequently amended). The register of undesirable people is part of the foreigner information system, which is a source for statistical data provided in the Chapter 7, Table 7-5 Development of the number of expulsions from the CR and Table 7-6 Expulsion from the Czech Republic by selected citizenship.