

5 CRIME OF FOREIGNERS

Since 2010, the Act No 40/2009 Sb, Criminal Code is valid and, at the same time, the Act No 140/1961 Sb remains valid. Data in tables for convicted persons are summarised since 2010 according to both the old and new Criminal Code.

Tables 5-1 and 5-3 are headcounts, i.e. each person is counted only once in the given overview. A table 5-2 is counted by Section, i.e. when a person was convicted of more crimes in the given year, such a person is counted more times. Therefore, it is impossible to compare the sum of convicted persons in total with the sum of convicted persons by Section. In table 5-2 only persons convicted according to new Criminal Code No 40/2009 Sb are included. The persons convicted according to Act no 140/1961 Sb are not included because only low numbers of the persons were convicted according to this law in 2020.

The numbers of prosecuted and accused persons, persons resolved in shortened preparatory procedures, and persons on whom a motion for sentence was filed are compiled from statistical criminal reports completed by district, regional, and high prosecuting attorney's offices. The statistical criminal report is completed for each known person recorded in the register for supervision in criminal proceedings and supervision in shortened preparatory procedures. Where the proceedings were discontinued conditionally, the report is not completed, until the final and conclusive decision of the court is delivered pursuant to the Section 308 of the Code of Criminal Procedure. The reports are not made, if proceedings in a legal case took place and no offender (suspect) was revealed. The statistical criminal report is completed in accordance with the contents of files, identically for all persons irrespective of the way the legal case is resolved.

The numbers of convicted persons are also derived from statistical criminal reports completed by district and regional courts of law; they are given separately according to both the old and new Criminal Code. A statistical criminal report is made immediately when the ruling comes into force and for each person concerned separately. Where the proceedings were discontinued conditionally, the statistical criminal report is not completed, until the final and conclusive decision of the court is delivered pursuant to the Section 308 of the Code of Criminal Procedure. If a convicted person is found guilty of more crimes, only the most serious crime is given in the report.

Data on persons in prisons (persons in custody, persons serving a sentence of imprisonment, and persons in security detention) are obtained from the Central register of persons in prisons from the General Directorate of the Prison Service of the Czech Republic.

As a result of legislative changes effective from 1 October 2017, by the Act No 58/2017 Sb, the Act No 40/2009 Sb, the Criminal Code, as amended, was changed as well as the Act No 169/1999 Sb, on serving a sentence of imprisonment, and other related acts, as amended – a change occurred in placement of convicts to categories of prisons by court. Since then, the Criminal Code distinguishes now instead of four prison categories (open prison, prison under supervision, prison especially guarded, and top security prison) only two prison categories according to the way how external security is ensured, ensuring of safety, and the regime under which a sentence is served – now there are two prison categories: prisons with security and prisons with increased security. Prisons with security are newly internally differentiated to units with low level of security, units with medium level of security, and units with high level of security. Placement of a convict to individual units of a prison with security is newly decided by the Prison Service itself based on a large scale of criteria including the so-called penal recidivism of the convict. These changes were reflected in Table 5-7.

Persons prosecuted - the number of persons, who were notified of the accusation pursuant to the Section 160 of the Code of Criminal Procedure (delivered, announced) in the reference year.

Persons accused – the number of persons against whom a legal action was brought pursuant to the Section 176 of the Code of Criminal Procedure in the reference year.

Shortened preparatory procedure – the number of persons against whom shortened preparatory procedure conducted pursuant to the Section 179(a) of the Code of Criminal Procedure was terminated in the reference year.

Motion for sentence - the number of persons on whom a motion for sentence was submitted in court pursuant to the Section 179(c) of the Code of Criminal Procedure.

Convicted person - a person, against whom a court of law issued a judgment of conviction, which already came into force.

Note: Data are drawn from statistical criminal reports delivered to the Ministry of Justice in the reference year.

Judiciary expulsion (expulsion punishment; banishment)

from the territory of the Czech Republic imposed by a court on an offender who is not a citizen of the Czech Republic (Section 80 of the Act No 40/2009 Sb, the Criminal Code):

as a separate punishment;

or concurrently with another sentence.

Based on a final and conclusive decision of a court on an expulsion sentence imposed, the Directorate of the Alien Police Service declare a foreigner an undesirable person and they include the foreigner in the register of undesirable people (Section 154, paragraph 3 of the Act No 326/1999 Sb, on the stay of foreigners on the territory of the Czech Republic and on changes to some acts, as amended). The register of undesirable people is part of the alien information system, which is a source for statistical data provided in the Chapter 7, part 7-6 and 7-7 Development of the Number of Expulsions from the CR and Expulsion from the CR by Selected Citizenship.