

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

Before 2008, the concept **“Illegal migration across the state border of the Czech Republic”** included cases of illegal crossings of the state border by both foreigners and Czech citizens. Covered were revealed illegal entries/exits of foreigners to/from the CR, including attempted ones. Recorded were, for example, cases when a foreigner used irregular travel documents, crossings of the state border with participation of individuals involved in trafficking, or cases of persons found in a hiding place in the means of transport. Parts of statistics were also attempts of foreigners to get in the country, despite a court of law’s sentence of expulsion or a legal and conclusive decision on administrative expulsion imposed on him/her was still in force.

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

In relation to the accession of the CR to the Schengen territory it was necessary to fundamentally change the concept of definitions of illegal migration on 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. The year 2008 can be seen as year “zero” in the area of illegal migration.

From 2008 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 – this category includes persons crossing illegally or attempting to cross illegally the external Schengen border (international airport) of the Czech Republic. In this context, persons mean foreigners and Czech nationals.
2. Illegal stay – in this category, registered are foreigners revealed on the territory of the Czech Republic including transit areas at international airports, who have violated conditions required by law regulating the stay of foreigners. Persons in this category mean foreigners.

Ad 1 – from 2008 the border control has been made only 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 this is the reason why the data referring to illegal migration across the state border cannot be compared.

Ad 2 – from 2008 the category of illegal stay includes persons that have entered the territory of the Czech Republic from the neighbouring states (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

Section 118 of the Act No. 326/1999 Sb., on Residence of Foreigners on the territory of the Czech Republic and on changes of some acts, as amended

(1) Administrative expulsion is the termination of stay of a foreign national on the territory, which is related to the determination of a time limit for leaving the territory and of the period, during which the foreign national is not allowed to entry the territory of Member States of the EU. The period for which it is not possible to allow the foreigner to entry the territory of Member States of the European Union is determined by the police in a decision on administrative expulsion

of a foreign national. In reasoned cases it is possible to determine by the decision also a border crossing for leaving the territory.

(2) Administrative expulsion of a citizen of the European Union or his or her family member means termination of the stay of the citizen of the European Union or his or her family member on the territory; it is related to the determination of a period, during which he or she has to leave the territory and a period, during which it is impossible to allow the foreigner to enter the territory again.

(3) The period during which he or she has to leave the territory is determined for 7 to 60 days. Provided that the decision on the administrative expulsion is issued according to the Section 119 (1)(a), the police has the right to determine the period for leaving the territory shorter than 7 days. If the period for leaving the territory (according to the decision on the administrative expulsion) shall start during the detention of the foreigner, then it starts on the day when the detention is terminated. If the foreigner is detained during the period determined for leaving the territory, the duration of the period is interrupted by the detention.

(4) For the purposes of administrative expulsion, the following are also considered as a temporary stay on the territory: illegal stay of a foreigner on the territory or stay of a foreigner in the transit area of an international airport or stay with a visa granted pursuant to a special act² or stay until coming into force of the decision of the ministry on granting of residence permit for the purpose of provision of a temporary protection on the territory^{3a} or of court decision on an action regarding temporary protection. If, in such case, administrative expulsion is not ruled (because a consequence of such ruling would be an inadequate interference in private or family life of the foreigner) the police issues an order to leave the country for the foreigner. The foreigner is obliged to leave the territory during the period determined in the order to leave.

(5) Collective administrative expulsion of foreign nationals based on one decision is prohibited.

For expulsion by court see methodology of Chapter 5 – Crime of Foreigners.

² Act No. 325/1999 Sb. on Asylum and Amending Act No. 283/1991 Sb. on the Police of the Czech Republic, as amended, (Act on Asylum), as amended.

^{3a} Act No. 221/2003 Sb. on Temporary Protection of Foreigners.