

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.

The numbers of prosecuted and accused individuals, individuals disposed of in summary pre-trial proceedings, and individuals on whom a motion for punishment 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 summary pre-trial proceedings. Where the proceedings were discontinued conditionally, the report is not completed, until the final and conclusive decision of the court is delivered in compliance with Article 308 of the Criminal Procedure Code. The reports are not made, if proceedings on a matter took place and no perpetrator (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 matter is settled.

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. Where the proceedings were discontinued conditionally, the statistical criminal report is not completed, until the final and conclusive decision of the court is delivered in compliance with Article 308 of the Criminal Procedure Code. If a convicted person is found guilty of more crimes, only the most serious crime is given in the report.

The data on persons in prisons and serving custody are taken from records of the General Directorate of the Prison Service of the Czech Republic.

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

Accused - the number of persons, against whom an action was brought pursuant to Article 176 of the Criminal Procedure Code in the reference year.

Summary pre-trial proceedings - the number of persons for whom summary pre-trial proceedings pursuant to Article 179(a) of the Criminal Procedure Code were terminated in the reference year.

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

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

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

Expulsion by court:

Sec. 80 of the Act No. 40/2009 Sb., Criminal Code

Expulsion

- (1) The court of law can impose the sentence of expulsion from the Czech Republic on an offender, who is not a citizen of the Czech Republic, as a separate sentence or with another sentence concurrently if required by safety of civilians or property or by other

public interest. Expulsion may be imposed as a separate punishment when no other punishment is necessary with regard to the character and seriousness of a committed crime and the personality and situation of the offender.

(2) With respect to the character and seriousness of the committed offence, chances for correction and personal situation of the offender and the degree of public danger, danger to property or other public concern, the court can impose the sentence of expulsion from 1 to 10 years or for an indefinite period.

(3) The court of law will not impose the sentence of expulsion provided that

a) the citizenship of an offender has not been found out;

b) an offender was granted asylum or additional protection pursuant to another legal regulation;

c) an offender has been granted a permanent residence permit on the territory of the Czech Republic, has work and social ties in the CR and imposing of a sentence of expulsion would be in contradiction with the interest in family reunification;

d) there is danger that an offender in the country, to which he or she shall be expelled would be persecuted for his or her race, ethnical group to which he or she belongs, nationality, belonging to some social group, political or religious thinking or if the expulsion would expose the offender to torture or other inhuman or humiliating treatment or punishment;

e) an offender is an EU citizen or his or her relative regardless of the citizenship and has been granted a permanent residence permit on the territory of the Czech Republic or is a foreigner with granted legal status of a person residing on the territory of the Czech Republic for a long time according to another legal regulation, unless there are serious reasons for danger to the safety of the CR or the public order;

f) an offender is an EU citizen and during the last 10 years has been permanently staying on the territory of the Czech Republic, unless there are serious reasons for danger to the safety of the CR;

g) an offender is a child, who is a citizen of the European Union, unless an expulsion is in the best interest of the child.