

3. ECONOMIC ACTIVITY OF FOREIGNERS

Data on employment of foreigners on the territory of the Czech Republic are derived from records of the Ministry of Labour and Social Affairs on issued valid work permits to foreigners, issued Employee Cards, Green Cards, and Blue Cards to foreigners, and the number of pieces of information on commencement of work by citizens of the EU/EEA, Switzerland, and third-country nationals, who do not need a work permit, Employee Card, Green Card, or the Blue Card for work and are registered by regional offices of the Labour Office of the Czech Republic, as well as from records of the Ministry of Industry and Trade on foreigners holding trade licences.

1) Records of the Ministry of Labour and Social Affairs

Employment of foreign nationals with economic status of employees

Since 1 May 2004 nationals of the EU/EEA and Switzerland and their family members are no longer considered foreigners from the point of view of the Act No 435/2004 Sb, on employment, and pursuant to the Act they enjoy the same legal status as Czech citizens do, which means they have free access to the labour market in the Czech Republic. The following belong to the EU Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom. Besides the EU Member States, the following countries belong to the European Economic Area (EEA): Norway, Liechtenstein, and Iceland.

Other foreigners, who are neither nationals of the EU/EEA and Switzerland nor their family members, can perform work on the territory of the Czech Republic on condition that they have received a work permit and a residence permit or the Employee Card, Green Card, or the Blue Card, provided that the Act on Employment does not set down otherwise.

Employment of foreign nationals with economic status of registered entrepreneurs

Fulfilment of tasks is also regarded as employment if they are ensured by:

- an associate, a statutory body, or a member of a statutory body, or another body of a business company for the business company;
- a member of a cooperative or a member of a statutory or another body of a cooperative for the cooperative.

Those foreigners can fulfil tasks provided that they were granted a work permit and a residence permit.

Tasks following from a core business of a business company or a cooperative are not tasks, which are fulfilled by statutory or other bodies of a business company or a cooperative on the grounds of their function, e.g. conduct of a business by the company executive, participation in management of a cooperative by a member of the board of the cooperative, activities of a member of the supervisory board, etc. Tasks of statutory bodies are specified in detail in the Civil Code.

A work permit can be issued also to a foreigner, who is a long-term residence permit holder for the purpose of "business" and besides doing business he or she wants to work in an employment relationship pursuant to the Labour Code, too.

Valid work permits of foreigners

The information on valid work permits granted to foreigners provided in this chapter pertains exclusively to persons with a temporary residence upon short-term visas for stay up to 90 days and to persons with a long-term residence over 90 days. The below mentioned conditions of employment of foreigners in the Czech Republic are related to legislation valid as at 31 December 2016.

A work permit can be granted to a foreigner by a regional labour office for a job vacancy, which is reported by the employer to be vacant and which cannot be filled otherwise with regards to the required qualification or lack of free labour force. The employer at the same time shall announce to the regional labour office the job description, i.e. type of work and place of work performance, prerequisites and requirements determined for the job, basic information on labour and wage conditions including expected duration of the work performance.

A work permit with regards to the conditions on the labour market is granted by a regional labour office to a foreigner who wants to be employed on the territory of the Czech Republic and it applies to:

a) seasonal work for the period of six months in a calendar year provided that at least a six-month period passes in between the respective employments;

b) fulfilment of tasks resulting from the core business of a legal person ensured by an associate, statutory body or a member of a statutory body or another body of a business company for the business company or by a member of a cooperative or a member of a statutory or another body of a cooperative for the cooperative;

c) a holder of a long-term residence permit for business purposes;

d) a short-term employment up to three months.

A work permit is granted to foreigners regardless conditions on the labour market if

a) they are sent to the territory of the Czech Republic by a foreign employer based on a contract concluded with the domestic legal or natural person for fulfilment of tasks resulting from the contract;

b) they are to be employed for a limited period for the purpose of improving their skills and qualification in the selected job (trainees), but only for a period of six months as a maximum. This period can be prolonged, but as a maximum only for the period necessary to obtain professional qualification in accordance with regulations valid in the Czech Republic;

c) they are up to 26 years of age and performing occasional and time-limited jobs within the exchange between schools or within programmes for the youth, in which the Czech Republic participates;

d) it is set down for them in a promulgated international treaty, the ratification of which was approved by the Parliament of the Czech Republic and which is binding for the Czech Republic;

e) they were granted a stay sufferance visa in accordance with the Act on the Residence of Foreigners or were granted a long-term residence permit for the same purpose;

f) they are applicants for international protection or were granted a visa for stay over 90 days for the purpose of stay sufferance pursuant to the Asylum Act, however, after 6 months after they have provided data for the submitted application for international protection, at the earliest.

Data on work permits granted come from the records of respective regional labour offices, which pursuant to the Act No 435/2004 Sb, on employment, decide within the administrative procedure on granting or revocation of a work permit.

A work permit, Employee Card, Blue Card or Green Card is not required for foreigners who:

a) were granted asylum on the territory of the Czech Republic or were granted subsidiary protection;

b) are holding a permanent residence permit for residence on the territory of the Czech Republic;

c) are family members of members of diplomatic missions and consular authorities or family members of employees of international government organizations having their seat on the

territory of the Czech Republic, on condition that reciprocity is ensured by an international treaty concluded on behalf of the Government of the Czech Republic;

d) are

performing artists,

teachers and lecturers,

academics at universities,

science, research, and development workers participating in a scientific meeting,

pupils or students up to 26 years of age,

sportspersons,

persons ensuring in the Czech Republic deliveries of goods or services, or is delivering the goods, or persons assembling stuff on the basis of a business contract, or, as the case may be, performing guarantee and repair works,

and whose stay on the territory of the Czech Republic does not exceed seven consecutive calendar days or the total of 30 days in a calendar year;

e) are employed on the territory of the Czech Republic in accordance with an international treaty, the ratification of which was approved by the Parliament of the Czech Republic and which is binding for the Czech Republic;

f) are members of rescue units and provide aid in compliance with international agreements on mutual aid for remediation and mitigation of consequences of accidents and natural disasters and in cases of humanitarian aid;

g) are employed in international transport, if they are sent to perform their work on the territory of the Czech Republic by their foreign employer;

h) are persons accredited in mass media;

i) are military or civilian staff of the armed forces of their country of origin (sending country) in accordance with a special act;

j) are systematically preparing in the Czech Republic for their future careers;

k) are sent to the territory of the Czech Republic within services provided by an employer having registered office or seat in another EU Member State;

l) reside on the territory of the Czech Republic on the grounds of a long-term residence permit for the purpose of family reunification, if it is family reunification with a foreigner under the letters a) or b) or with a foreigner, who stays on the territory of the Czech Republic based on a valid long-term residence permit;

m) stay on the territory of the Czech Republic on the basis of a long-term residence permit of a resident of another EU Member State;

n) perform in the Czech Republic systematic educational or scientific activity as a teacher or lecturer or an academic of a university or as a science, research, or development worker in a public research institute or other research organization pursuant to a special regulation;

o) have acquired secondary or higher professional education or higher professional education at a conservatoire pursuant to the Education Act, or higher education pursuant to the Higher Education Act;

p) reside on the territory of the Czech Republic on the basis of a long-term residence permit for the purpose of protection on the territory pursuant to the Act on the Residence of Aliens on the Territory of the Czech Republic;

r) they are clergymen of a church registered in the Czech Republic or of a religious society registered in the Czech Republic;

- s) are sent to the territory of the Czech Republic by their foreign employer based on a contract concluded with a Czech legal or natural person exclusively for the purpose of enhancement of skills and qualification of the foreigner necessary for the performance of work for the foreign employer outside the territory of the Czech Republic. It is the Government of the Czech Republic that shall decide when a foreigner can be sent to the Czech Republic. The total duration of stay of the foreigner must not exceed 6 months.

In the case of employment of a foreigner under the letters a) to e) and letters j) to s), however, the employer or a legal or natural person (to whom a foreigner was sent by his or her employer on the basis of a contract to perform work) is obliged to **inform in writing on this fact the competent regional labour office on the day of commencement of work of the foreigner at the latest.**

A work permit cannot be granted to foreigners who

- applied for granting of international protection in the Czech Republic, for the period of 6 months since the day when data were provided for the submitted application for international protection; or
- do not meet some of the conditions set down by the Act on Employment for granting of a work permit.

Employee Cards

With effect from 24 June 2014, in relation to the transposition of the Directive 2011/98/EU of the European Parliament and of the Council, the Employee Card was introduced, which is of dual nature, i.e. it is a work permit and a residence permit at the same time.

The Employee Card is issued by the Ministry of the Interior for a concrete job vacancy, which is kept by the Ministry of Labour and Social Affairs in the central register of job vacancies that can be filled with employee card holders.

A job vacancy, which can be filled under the employee card regime means such job vacancy, which has not been filled within 30 days since it was notified to the regional labour office, except for job vacancies of officials of territorial self-governing units and job vacancies of employees, who execute state administration in administration authorities.

The employment contract or contract for work has to contain besides requisites stipulated by the Labour Code also a stipulation from which it results that regardless the scope of work the monthly wage, salary or reward of a foreigner shall not be lower than the basic rate of the monthly minimal wage. The weekly working hours in each basic employment relationship has to be at least 15 hours.

The condition to prove professional qualification for the performance of required employment results from the character of the employment.

An application for the Employee Card shall be submitted at an embassy or a consulate of the Czech Republic abroad. During the stay on the territory for a visa for stay over 90 days or for a long-term residence permit granted for another purpose a foreigner can apply for an Employee Card at the Ministry of the Interior.

A change of the employer or employment position of an employee card holder or employment of the foreigner at another job position or at another employer are liable to prior consent of the Ministry of the Interior.

As at 31 December 2016 there were in total 14 391 employee card holders registered on the territory of the Czech Republic.

Green Cards

Since 1 January 2009 a new type of the long-term residence permit for the purpose of employment in special cases, called the Green Card, was introduced on the territory of the Czech

Republic. It is a dual nature document by means of which foreigners are granted a long-term residence permit and a work permit at the same time.

The Ministry of the Interior decided on issuing of the Green Cards. The long-term residence permit under the Green Card regime was issued in categories as follows:

“A” – for workers having a university degree and key staff (for the period of up to 3 years with possible prolongation by 3 years every time);

“B” – for workers in job positions requiring at least apprenticeship certificate (for the period of up to 2 years with possible prolongation by 3 years every time);

“C” – for other workers (for the period of up to 2 years without the possibility of prolongation).

Since 23 June 2014 it is not possible any more to apply for the Green Card or to apply for prolongation of the Green Card. Issued Green Cards remain valid until the date, which is stated on the card and they are regarded as the Employee Cards. Before the Green Card validity expires, it is possible to ask the Ministry of the Interior for the Employee Card, namely within the period of 90 days as a minimum and 14 days as a maximum before the validity of the Green Card expires.

During the period from 1 January 2009 to 31 December 2016 there were registered in total 639 Green Cards issued. There were 39 Green Cards valid as at 31 December 2016.

Blue Cards

Since 1 January 2011, based on the transposition of the Council Directive 2009/50/EC to the Czech legislation, conditions were made for an introduction of another type of permitting of employment and residence of foreigners on the territory of the Czech Republic for the purpose of performance of highly qualified employment, called the Blue Card.

A job vacancy, which can be filled under the Blue Card regime means such vacancy that has not been filled within 30 days since it was reported to the regional labour office and for performance of which a high qualification is required – i.e. regularly completed higher education or higher professional education provided that the study lasted for at least 3 years.

The Ministry of the Interior decides on issuing of the Blue Cards.

The employment contract has to be concluded for the period of at least one year with weekly working hours stipulated by law and – besides requisites stipulated by the Labour Code – it has to contain the amount of contracted gross monthly or annual wage corresponding at least to 1.5 times the average gross annual wage announced in the notification of the Ministry of Labour and Social Affairs.

A change of the employer or employment position of a blue card holder during the first two years of residence on the territory of the Czech Republic is liable to prior consent of the Ministry of the Interior provided that the blue card holder will continue to fill a job position requiring a high qualification that can be pursuant to a special regulation filled with a foreigner. After the two years pass, the blue card holder is obliged to announce such changes to the Ministry of the Interior within the period of 3 working days.

During the period from 1 January 2011 to 31 December 2016 there were registered in total 579 Blue Cards issued. There were 257 Blue Cards valid as at 31 December 2016.

Types of work permits

An individual permit shall mean a work permit, Employee Card, or the Blue Card of a foreigner in an employment relationship with a domestic employer. The domestic employer is a legal or natural person authorized to carry out economic activities on the territory of the Czech Republic on the grounds of a record in the competent Commercial Register or other register as determined by law (e.g. the Trade Licences Register or the Register of Patent Attorneys), a record in a relevant list (e.g. the list of auditors or the list of tax advisers), or an entry in specified registers kept by a

competent authority of the Czech Republic (e.g. Register of Self-Employed Farmers). The domestic employer is also a natural person, who does not run a business, yet employs another natural person for his or her personal needs.

A contract shall mean an employment of a foreigner by a legal or natural person having the registered office or residence outside the territory of the Czech Republic, which is not engaged permanently in a business in the Czech Republic, yet sends their employees to the Czech Republic to execute business activities or other contracts concluded with a domestic legal or natural person.

Employer's duty to inform

Nationals of the EU/EEA and Switzerland and their family members do not need to have a work permit, Employee Card, or the Blue Card for the purposes of employment on the territory of the Czech Republic. The same applies to the family members of citizens of the Czech Republic, who are not citizens either of the Czech Republic or any other EU Member State. Employers, or legal or natural persons, to which citizens of the EU/EEA and Switzerland and their family members were sent by their foreign employer, are obliged to inform in writing on this fact the locally competent regional labour office (depending on the locality of the workplace, where the work is performed), on the day of commencement of the performance of work of these persons, at the latest.

This duty to inform applies also to other foreign citizens who received a work permit, Employee Card, or the Blue Card or do not need a work permit (see letters a) to e) and letters j) to s) of the aforementioned information starting with "**A work permit, Employee Card, Blue Card, or the Green Card is not required**") for the performance of their work on the territory of the Czech Republic.

The employer is obliged to inform in writing the competent regional labour office within 10 calendar days at the latest that foreign nationals ended performance of their work or that their sending has finished. The same is valid also in the case that a foreign national has not commenced work.

The duty to inform that a foreigner (holder of the Employee Card or the Blue Card) has not commenced work has to be fulfilled by the employer within 45 calendar days as the latest since the date when the application of the foreigner for the issue of the Employee Card or the Blue Card was complied with.

Registration of foreign nationals

Employers are obliged to keep records of citizens of the EU/EEA and Switzerland and their family members as well as all foreigners employed by them or sent to them by foreign employers for the performance of work.

With regards to changes of information systems during 2012–2016, only qualified estimates are available as for the total number of foreign nationals performing work on the territory of the Czech Republic in the employee status. According to the estimate the respective regional labour offices registered 382 889 foreign nationals on the territory of the Czech Republic as at the end of 2016. Despite the total number of foreign employees increased (by 59 645 persons compared to 2015), it can be stated that the number of foreign workers who need a work permit for their work continued to decrease, and, on the contrary, the number of foreigners, who do not need a work permit, Employee Card, or the Blue Card to perform their work as well as the number of the EU/EEA citizens and citizens of Switzerland and their family members, who have free access to the labour market. At the same time the number of foreigners, who need the Employee Card for their work activities, has been increasing.

2) Register of the Ministry of Industry and Trade

Foreigners holding a trade licence

Pursuant to the Trade Licensing Act No 455/1991 Sb, as amended, foreigners can do business in the Czech Republic like Czech citizens, if they fulfil obligations as set down in this Act and related regulations. They are allowed to carry on a business activity pursuant to the Trade Licensing Act as natural persons, but they can also establish legal persons in the Czech Republic (usually business companies or cooperatives according to the public registers), or found on the territory of the Czech Republic organizational units of their enterprises abroad. Pursuant to the Trade Licensing Act, the foreign natural person is a natural person, who does not have residence (i.e. permanent residence) on the territory of the Czech Republic. This person must hold a residence permit to stay in the Czech Republic pursuant to the Act No 326/1999 Sb, unless it is a national of an EU Member State or a citizen of a state with which the Czech Republic concluded a treaty banning this restriction. This provision thus applies also to nationals of states, which are bound by an international treaty concluded with the European Communities, as well as to nationals of states, which are bound by the EEA Treaty.

For purposes of this publication the term of **a foreigner holding a trade licence** (hereinafter as a foreigner with a TL) has been chosen; the numbers of entrepreneurs include entrepreneurs-foreigners with granted long-term visa (over 90 days) or a long-term residence permit, entrepreneurs-foreigners with permanent residence, family members of residents with a long-term stay, persons, who were granted asylum or subsidiary protection (hereinafter as refugees), and nationals of the EU Member States and citizens of Switzerland, Norway, Iceland, and Liechtenstein, and their family members.

The number of entrepreneurs-foreigners holding a trade licence was gradually increasing year by year. Their number dropped in 1998 for the first time as a result of the amendment to the Trade Licensing Act, which was published in the Collection of Laws (abbreviated as Sb) of the Czech Republic under the No 286 in 1995. The amendment imposed stricter duties on entrepreneurs as for submitting documents stipulated by law. The second decline in the number of entrepreneurs occurred after 2001 due to the adoption of a large amendment to the Trade Licensing Act, which was published in the Collection of Laws of the Czech Republic under the No 356 in 1999. At the same time, the Act No 326/1999 Sb, on the residence of aliens on the territory of the Czech Republic and amending certain acts made conditions for acquisition of a long-term visa for business purposes stricter.

The trade licensing offices terminated trade licences of entrepreneurs-foreigners who had not submitted mandatory documents on the residence. Due to that, entrepreneurs-foreigners decreased in number already in 1998 and then in 2002. However, since 2003 a rather high increase in the number of these persons has been actually shown.

On 1 May 2004 an amendment to the Trade Licensing Act harmonising it with EU legislation came into force, which was published in the Collection of Laws of the Czech Republic under the No 167 in 2004. This legal document made, among others, status of EU nationals and the Czech citizens equal. On 1 July 2008 an amendment to the Trade Licensing Act came into force, which was published in the Collection of Laws of the Czech Republic under the No 130 in 2008. This amendment introduces the only one free trade with the core business of **Production, trade, and services not classified in Annexes 1–3 to the Trade Licensing Act** with 80 economic activities replacing the then existing 125 free trades. This resulted in a decrease in the number of trade licenses issued.

Before 31 December 2010, for foreign natural persons with the duty to have a residence permit for stay over 90 days the trade licence originated only at the time of the record in the Commercial Register, while to other foreigners doing their business under the Trade Licensing Act (EU nationals, citizens of the countries acceding to the Agreement on the EEA, foreigners with permanent residence, family members of residents with a long-term stay, and refugees) their trade licence originated on the day of notification or, at trades with a trade permit on the day when the decision on granting of the trade permit comes into force. After the Act No 427/2010 Sb came into force on 1 January 2011, the right to perform trade originates for a foreigner, who is obliged to

have his or her stay permitted, on the day of notification of their trade to the municipal trade licensing office or on the day when the decision on granting of a trade licence comes into force, providing that a foreigner at notification of the trade (at submitting of an application for granting of a trade licence) meets all requirements for performing of the trade including the permitted stay. In case that a foreigner obtained from the trade licensing office for the purpose of proceedings on a residence permit a copy of an entry, the trade licence originates for him or her on the day when he or she supplies evidence of granting of a long-term visa or a long-term residence permit to the trade licensing office providing that the document on a residence permit was documented within 3 working days from the day of notification of the place of residence of the foreigner on the territory of the Czech Republic, for whom the trade has been notified or for whom the application for a trade licence has been submitted and at the same time in the period of 6 months at the latest from the delivery of the copy of an entry.

On 1 July 2012, a system of basic registers has been launched, which is regulated by the Act No 111/2009 Sb, on basic registers, as amended. In relation to the connection of the Trade Licensing Register with the system, data kept in the Trade Licensing Register have been updated (e.g. of persons with terminated stay on the territory of the Czech Republic, historically originated duplicate identification numbers of persons were eliminated, and trade licences of deceased persons have been terminated), which was reflected also in the number of persons kept in the Trade Licensing Register. This decrease in the number of foreigners continued also in 2014. In 2015, a slight increase was recorded again which continued in 2016 as well.

The number of foreigners – EU nationals with a valid trade licence was constantly increasing. In 2004 and 2005 over 14 thousand foreign persons were doing business in the Czech Republic. In 2006 the number of foreigners – entrepreneurs dropped. The decrease was not deep and it can be explained by implementation of the planned data relocation from the existing local registers of entrepreneurs to the new central information system, which, among others, resulted in the elimination of duplicate entries recorded in the system of respective local registers. In 2007, however, the number of EU nationals holding a trade licence exceeded the level from the year 2005 and a significant increase occurred in 2008 and continued in the following years as well. Most of the foreigners are citizens of Slovakia (15.4 thousand persons), compared to 2015 (14.4 thousand persons) it is an increase by 0.1 thousand persons. They are followed by Germans (3.1 thousand persons), and citizens of Poland (2.3 thousand persons). In 2016 there was a slight decrease in the number of foreigners from third countries outside the EU by about 0.3 thousand persons less compared to 2015. The most frequented third-country nationals are citizens of Viet Nam (22 415 persons) and the Ukraine (22 150). Compared to 2015 their number also decreased. Concerning other countries there were over 1 thousand foreigners with a trade licence found in citizens of the Russian Federation (2 700) and the United States (1 363). They are followed, after a significant gap, by citizens of the Republic of Moldova (690) and Belarus (565).

3) Total employment of foreigners

Total employment of foreigners refers to the sum of the numbers of valid work permits, Employee Cards, and the Blue Cards of foreigners, foreigners registered by regional labour offices, and foreigners holding a trade licence.

Illegal employment

The State Labour Inspection Office (hereinafter as the SLIO) and Regional Labour Inspectorates perform supervisory activities over compliance with the Employment Act provisions. They are also empowered to conduct administrative proceedings of imposing fines for found infractions, misdemeanours, and administrative delicts.

Controls focused on illegal employment in 2016 were carried out by teams of inspectors in cooperation with clerks and officers of customs offices, Alien Police Service of the Police of the Czech Republic, Labour Office, Czech Social Security Administration or, as the case may be, other bodies (trade licensing offices, revenue authorities). In the course of 2016 the aforementioned

authorities checked 7 988 (9 044 in 2015) employers (4 501 legal persons, 3 487 natural persons of the self-employed). At 1 988 of them (at 1 595 in 2015) illegal employment was found. There were in total 1 530 foreign citizens performing illegal work captured (1 152 in 2015), of whom 193 were EU nationals (294 EU nationals in 2015) and 1 337 third-country nationals (858 third-country nationals in 2015). 343 foreigners performed illegal work in the form of employment without having an employment relationship, 785 foreigners performed work that was in contradiction to their work permit or without a permit or in contradiction to the Green Card, Blue Card, or the Employee Card, and 209 foreigners performed work without a valid residence permit on the territory of the Czech Republic. Some of the aforementioned persons violated multiple legal provisions.

Illegally working EU nationals came especially from citizens of Slovakia, Romania, Hungary, and Bulgaria. In the case of the third countries citizens they the most frequently came from the Ukraine, Republic of Moldova, and Viet Nam, in a lesser extent they were citizens of Serbia, Albania, Uzbekistan, some of them were citizens of and the Russian Federation. Illegal employment of foreign citizens was recorded mainly in the economic activities of construction, manufacturing, and wholesale and retail trade; repair of motor vehicles and motorcycles. The economic activities of accommodation and food service activities showed just a negligible decline in the number of illegally working persons compared to previous years.

In 2016 the SLIO imposed **61** fines (90 fines in 2015) in the total amount of CZK **13 161 000** (CZK 10 154 000 in 2015) for administrative delicts in relation to illegal employment of third-country nationals. There are 36 fines, of that number, legally effective in the total amount of CZK 6 685 000. Other 25 fines are in the stage of a proposal or pending proceedings.