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National Contact Point of the European Migration Network in the Czech Republic

EMN Study

**Practical Measures for Reducing
Irregular Migration in the Czech
Republic**

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European Migration Network is a network supported by the European Commission aimed at collecting, exchanging and analyzing of up-to-date data and information on migration and asylum issues as regards 26 European Member States and Norway. In this respect, there is a national migration network functioning composed of state organizations, universities, and research institutions, international and non-governmental organizations.

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LIST OF ACRONYMS

API	Advance Passenger Information Data
CR	Czech Republic
DAMP	Department of Asylum and Migration Policy
DFFN	Detention Facility for Foreign Nationals
DFPS	Directorate of the Foreign Police Service
EC	European Communities
EEA	European Economic Area
EMN	European Migration Network
EO	Embassy Office
EU	European Union
FJST	Frontex Joint Support Team
FNIS	Foreign National Information System
FPI	Foreign Police Inspectorate
FPS	Foreign Police Service
FRAN	Frontex Risk Analysis Network
Frontex	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
IA	International Airport
ICMPD	International Centre for Development of Migration Policies
IOM	International Organization for Migration
IS	Information System
MoICR	Ministry of the Interior of the Czech Republic
MoLSA	Ministry of Labour and Social Affairs
NGO	Non-profit non-governmental organisation
OCDU CPIS	Organised Crime Detection Unit of the Criminal Police and Investigation Service
PCR	Police of the Czech Republic
RABIT	Rapid Border Intervention Team
RFA	Refugee Facilities Administration
USA	United States of America
VIS	Visa Information System

SUMMARY

This study, entitled *Practical Measures for Reducing Irregular Migration in the Czech Republic*, provides a general idea about the migration policy of the Czech Republic with regard to irregular migration and the measures implemented in the CR to address irregular migration. The study was prepared according to common specifications of the European Migration Network (EMN), according to which all EMN national contact points, that is, all the Member States of the EU, prepare their studies.¹ The information from the individual national reports or studies will be incorporated into a summary report of the European Commission, assessing the policies and practices in the field of irregular migration in the area of the European Union.

The responsible authorities pay constant attention to the issues of irregular migration and to the migration and asylum issues in general. If necessary, this topic is also addressed at government level. This topic has become more urgent with regard to the need to face the impacts of the economic crisis, which had a significant influence on the developments in migration. In February 2009, in connection with redundancies of foreign workers as a result of the economic crisis, the government of Miroslav Topolánek (a coalition government of ODS, KDU-ČSL and SZ) adopted a number of measures to address the impacts of the crisis on the stay of foreign nationals in the CR and to minimise any possible risks associated with irregular migration. In May 2010, in the Resolution of the Government of the CR No. 344, the government of Jan Fischer (a caretaker government) approved a material presenting measures to prevent and reduce irregular migration and the negative phenomena linked to such migration.

In January 2011, the current government of Petr Nečas (a coalition government of ODS, TOP 09, Věci veřejné) adopted what is referred to as the “National Schengen Plan 2011”, the purpose of which is to continuously maintain adequate quality of implementation of the Schengen standards. Under the auspices of the current government, a completely new legislation defining the conditions for entry and stay of foreign nationals in the territory of the CR is also being prepared (a new Foreign Nationals Act).

The basic legal framework of irregular migration in the CR is laid down by Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Territory of the Czech Republic and on changes to some Acts, as amended.

Migration issues and consequently the issues of irregular migration fall within the terms of reference of several authorities. The main authority in charge at the legislative level as well as in terms of implementation is the Ministry of the Interior of the CR. Within the Ministry of the Interior, the main responsibility for this field is borne by the Department of Asylum and Migration Policy, the Police of the CR – Directorate of the Foreign Police Service, and the

¹ 26 Member States of the EU and Norway participate in the activities of the EMN. At present, Denmark does not participate in preparation of EMN studies.

foreign police departments of regional police directorates; some powers are also held by the Organised Crime Detection Unit of the PCR and the Refugee Facilities Administration. The Department of Security Policy of the MoICR is also responsible for performing analytical and strategic activities and for creating strategies concerning organised crime and human trafficking.

The measures applied by the Czech Republic in connection with irregular migration have been divided, for the purpose of the study, into the measures adopted in connection with the period before entry into the country; at the time of entry into the country; during the stay in the country; and the measures, which offer irregular migrants options of resolving their situation.

In the period before entry into the country, several measures/procedures are applied, which are aimed at preventing irregular migration or at helping uncover such migration. These are preventive measures focused on improving awareness of foreign nationals about possible risks associated with irregular migration (for example, a project implemented in Mongolia and the CR focused on Mongolian labour migrants), verification in connection with the issue of visas, use of the mechanism of what is referred to as “prior consultation” or information on visas issued. Since October 2011, the Visa Information System (VIS) has been in use. Sending liaison officers for migration and documents to the embassies of the Czech Republic abroad also helps to reduce irregular migration.

Several measures have proved to be effective in the Czech Republic as concerns the time of a migrant’s entry into the country. API data, that is, lists of passengers requested from air carriers for selected flights, are used before arrival to the country by plane. On flights rated as risk flights with regard to internal security and irregular migration, checks are carried out when people leave the plane (gate checks). There are also patrols and random checks of persons are carried out to find out whether they are entitled to stay in the transit area of an international airport. Persons crossing the external border undergo a border check. On the internal land border, the concept of joint patrols with the information and coordinated support of joint information centres is used.

As for measures for reducing irregular migration in the country, checks known as “residence checks” are often performed in the CR. Residence checks are carried out in various forms and the main purpose is to verify whether the foreign national complies with the declared purpose of his/her stay. Whether a foreign national complies with the declared purpose of his/her stay is also verified during proceedings for prolongation of his/her stay in the country. Checks in the country are also carried out in the form of a check of the transiting road and railway transport.

The option of “stepping out of the irregular position” is offered to foreign nationals by several measures. These are namely assisted voluntary returns programmes, which address not only the issue of persons irregularly staying in the country but which also aim to prevent irregular migration as such. In the Czech Republic, there are three types of permanent programmes at present. As concerns regularisation options, the CR is not a supporter of measures for regularisation on a mass scale and does not employ such measures.

With respect to the field of irregular migration, the Czech Republic closely cooperates with the other Member States of the EU, with EU agencies, particularly the Frontex agency, third countries, the Prague office of the International Organisation for Migration and other entities. As concerns the legislatively governed forms of cooperation, the CR is a party to readmission agreements with a number of countries on a bilateral or Community basis. In addition to readmission agreements, implementing protocols for readmission agreements have also been agreed upon. With Moldova, Georgia and Armenia, the CR has also entered into a declaration on Partnership for Mobility.

1. INTRODUCTION

1.1. Objectives of the Study

The general objective of the study is to provide an overview of the measures implemented in the Czech Republic to address irregular migration. With this aim in mind, this study colligates information concerning a whole range of aspects of irregular migration. The study evaluates the political and legal framework of the CR in relation to irregular migration, presents a summary of the EU laws which are binding for the CR and provides an assessment of the impact of implementation of the European Union legislation at national level. The international cooperation between the CR and other players (other members of the EU, third countries, EU agencies) in the matters of irregular migration is also described. The study includes a basic assessment and presentation of the available statistical data on irregular migration situation in the CR.

The outputs of the study are primarily intended for policy-makers, including the staff of the relevant Ministries and authorities (at the European and national levels) who are involved in creating and implementing the policies related with irregular migration, as well as for the staff of universities and research institutions and other experts active in practice – the staff of international and non-profit non-governmental organisations, etc. The information presented in the study can also be used by the broader professional community interested in irregular migration, by the media and by other interest groups.

1.2. Definitions

The terminology used in the study is based on the EMN glossary of terms, which summarises the terms relating to asylum and migration.² The consistent terminology used in the EMN outputs makes it easier to compare the information provided by the individual Member States. For the purpose of the study, we use the terms “an irregular migrant; irregular migration” rather than the term “illegal”.

The term of an “irregular migrant” used in the EMN glossary of terms refers, in the context of the EU, to a third country national, who does not satisfy the conditions for entry according to Article 5 of the Schengen Border Code or some other conditions for entry into and stay in a Member State.

1.3. Methodology

The study was prepared by the national contact point of the European Migration Network (EMN) according to common specifications of the EMN, according to which all the Member States of the EU prepare their reports. The national reports or studies will be used as the

² The EMN glossary of terms is available at <http://emn.intrasoft-intl.com/Glossary/index.do#Top>.

source materials for preparation of a summarised report of the European Commission, generally assessing the policies for irregular migration in the area of the European Union.

When the source materials and information were being gathered, the contact and cooperation particularly with the staff of governmental authorities who were able to provide valuable resources and information on the policy-making and on the ways of implementing specific measures were of key importance. Within the Department of Asylum and Migration Policy of the MoICR, the section dealing with asylum and migration legislation provided a valuable assessment of the legislation relating to irregular migration. Staff from other sections of this department also provided interesting suggestions and recommendations.

At the implementation level, a very important role is played by the Police of the CR; a great amount of information on irregular migration is collected and examined by the Directorate of the Foreign Police Service (DFPS). In connection with preparation of the study, the DFPS was contacted with a request for more detailed information concerning the practical measures against irregular migration, statistical data and international cooperation. Much of the information is available on the intranet sites of the MoICR. On the DFPS Risk Analysis Department website itself, in the section Analyses and Statistics, under the title "Illegal Migration in the CR", statistical overviews can be downloaded, concerning irregular migration and the latest assessments of the migration trends in the CR. The DFPS also publishes the *Report on Migration in the Territory of the Czech Republic As Seen by the Foreign Police Service* every year, which, along with the summarised report by the Department of Asylum and Migration Policy – *Report on the Situation in Migration and Integration of Foreign Nationals in the Territory of the Czech Republic* -, was a very important source material for preparation of this study.

Some data, particularly the data concerning irregular employment of foreign nationals and the statistical data on this issue, were provided by the Ministry of Labour and Social Affairs.

For some of the information stated in the study, answers had already been prepared in response to ad-hoc questions from the EMN; these materials were also used as source materials for this study.

Materials created by other members of the EMN national network have also been important. In connection with a research project by the Faculty of Natural Science of the Charles University in Prague, which dealt with irregular work activities of migrants in the CR, a book titled *Illegal Economic Activities of Migrants: Czechia in the European Context* was published in 2008. Materials and articles from non-profit non-governmental organisations were helpful as well.

As concerns the problems which occurred during preparation of the study, the most frequent complication was unavailability of statistical data. It is very difficult to obtain reliable data on the numbers of irregular migrants in the CR. It is also very hard to get the data on marriages of convenience and sham declarations on paternity from the information systems. Summarised data concerning the costs of the system and the operation of the measures against irregular migration are also not monitored.

2. POLITICAL AND LEGAL FRAMEWORK IN RELATION TO IRREGULAR MIGRATION

This chapter provides an overview of the national policies and the institutional and legislative framework of the CR in relation to irregular migration. It identifies the social and political context impacting the national policy and legislation, the political and public debates on this topic and, partly too, the activities of both non-profit, non-governmental organisations and the academic sector.

2.1. National Policy and Legislation in Relation to Irregular Migration

2.1.1. Overview of the Current National Policy and Approach to Irregular Migration

In accordance with the *Principles of the Governmental Policy for Migration of Foreign Nationals*,³ the migration policy of the Czech Republic is determined by the priority to take effective measures, which will support controlled regular migration on the one hand and minimise irregular migration on the other. This goal is also supported by the efforts to ensure effective protection of state borders within the Schengen area. With regard to the principles laid down in the policy, the governmental migration policy aims to eliminate all forms of irregular migration and other irregular activities, by taking both national measures and measures based on international cooperation.

The relevant authorities pay constant attention to the matters of irregular migration and to the matters of migration and asylum in general. If necessary, this topic is also addressed at government level. This topic has become more urgent due to the need to face the impacts of the economic crisis, which had a significant influence on the developments in migration. In February 2009, in connection with redundancies of foreign workers as a result of the economic crisis, the government of Miroslav Topolánek (the coalition government of ODS, KDU-ČSL and SZ) adopted a number of measures to address the impacts of the crisis on the stay of foreign nationals in the CR and to minimise any possible risks associated with irregular migration.⁴ In May 2010, in the Resolution of the Government of the CR No. 344, the government of Jan Fischer (the caretaker government) approved the *Analysis of the Current Developments and Problems in the Field of Migration* and the *Course of Action by the Czech Republic in Preventing and Combating Illegal migration and the Negative Phenomena Linked to Migration*. This material presents measures to prevent and reduce irregular migration and the negative phenomena linked to migration.⁵

The current government headed by Petr Nečas (the coalition government of ODS, TOP 09, Věci veřejné) adopted the National Schengen Plan 2011, also known as the *National Plan for*

³ This fundamental strategic document of migration policy was approved by the Resolution of the Government of the CR No. 55 of 13 January 2003.

⁴ The Resolution of the Government of the CR No. 171 of 9 February 2009.

⁵ The Resolution of the Government of the CR No. 344, along with what is referred to as the National Schengen Plan, replaced the existing mechanism, under which the measures to control irregular migration were designed and which was entitled *Action Plan of Combating Illegal Migration* ("Action Plan"). The Action Plan included an annually updated time schedule for implementation of the individual measures.

Management of the Protection of the State Borders of the CR and the Correct Implementation of the Schengen Acquis, which aims to continuously maintain the adequate quality of implementation of the Schengen standards.⁶ In connection with irregular migration and the protection of borders, the National Schengen Plan 2011 is based on what is referred to as a four-zone, integrated model of the protection of state borders where the first zone includes the activities performed outside the territory of the EU/the Schengen area; the second zone concerns international cooperation in the field of the protection of borders; the third zone includes the measures at the external border; and the fourth zone includes the activities performed in the territory of the CR.

Under the auspices of the current government of Petr Nečas, a completely new legislation governing the conditions for foreign nationals' entry to and stay in the territory of the CR is also being prepared. In this connection, the Department of Asylum and Migration Policy of the Ministry of the Interior of the CR prepared a draft technical plan for new legislation governing foreign nationals' entry to and stay in the territory of the CR, free movement of the citizens of the European Union and their family members and the protection of the state borders. The draft technical plan was commented on by other related ministerial sectors, discussed by the Legislative Council of the Government and, according to the latest reports, has also been approved by the government of the CR.⁷ It is planned that the legislative process will be completed in 2013.

The *New System of Economic Migration to the Czech Republic*, a fundamental strategic document, which presents a list of conditions governing the economic migration of third country nationals, that is, the conditions associated with the performance of economic activities in the territory of the CR (labour migration as well as the entry and stay for the purpose of business activities), is closely related to the issues of irregular migration.⁸ The measures being introduced in connection with this system are aimed at aiding prevention of irregular migration in the CR. The new system of economic migration forms a part of the draft new legislation governing the entry of foreign nationals into and the stay of foreign nationals in the territory of the CR.

The CR pays constant attention to the process of entering into readmission agreements, which are also regarded as one of the effective tools for reducing irregular migration. During negotiation of readmission agreements, the CR directs its activities in three directions. It negotiates bilateral readmission agreements; it also participates in the work of the Commission concerning the negotiations of EU readmission agreements with selected third countries, and it also negotiates bilateral implementation protocols for these EU readmission agreements.

⁶ Approved by the Resolution of the Government of the CR No. 5 of 5 January 2011.

⁷ The government of the CR approved the draft technical plan for new legislation governing foreign nationals' entry to stay in the territory of the Czech Republic, the free movement of the citizens of the European Union and their family members and the protection of state borders at its meeting held on 29 February 2012.

⁸ Approved in the Resolution of the Government of the CR No. 48/2011.

The topic of irregular migration is discussed not only by the relevant governmental authorities, within whose terms of reference these matters fall, but also by the professional community, particularly by the members of international organisations or non-profit non-governmental organisations and academicians who are engaged in the topic under various projects.

Non-governmental organisations have repeatedly proposed using regularisation as a possible tool for reducing irregular migration. In April 2011, a conference organised under cooperation of several NGOs took place where outcomes of a project *Regularisation as One of the Tools in Combat against Illegal Migration* were presented. The objective of the project was to initiate a more extensive debate about the topic of regularisation.

Still, the long-term stance of the Ministry of the Interior of the CR on the possibility of implementing regularisation measures has remained unchanged. The MoICR does not regard mass regularisation as an effective tool and a possible solution that would reduce irregular migration and is not considering the inclusion of regularisation into the migration strategy of the Czech Republic. Despite this fact, both the current legislation and the future legislation provide for individual regularisation.

A project by the Faculty of Natural Science of Charles University, which was conducted under the lead of Dušan Drbohlav in the years 2005-2007, was focused on irregular work activities of migrants in the CR. The conclusions of this project were published in a book titled *Illegal Economic Activities of Migrants: Czechia in the European Context*.

2.1.2. Overview of the Legislation Relating to Irregular Migration

The basic legal framework of irregular migration in the CR is laid down by Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Territory of the Czech Republic, particularly by its parts consisting of Chapter II, Part 5 (Exit Order and a Decision on the Obligation to Leave the Territory, Sections 50 and 50a; Chapter VIII, defining the obligations of foreign nationals and other persons; Chapter X, which applies to administrative expulsion, including the provisions on reimbursement of the costs associated with administrative expulsion in Section 123 and the provisions on the possibility of providing assistance with return to the country of origin in Section 123a; Chapter XI (Special Measures for the Purpose of a Foreign National's Departure from the Territory and Detention of a Foreign National), and Chapter XIV (Administrative Offences).

Besides Act No. 326/1999 Coll., Ordinance No. 447/2005 of 3 November 2005, defining the the costs of accommodation, board and transport of a foreign national, detained for the purpose of administrative expulsion, within the territory of the CR, is also of fundamental importance.

With regards to criminal prosecution of those committing acts leading to aiding and abetting irregular migration, Act No. 40/2006 Coll., the Criminal Code, as amended must not be forgotten. Also significant are the provisions of Section 337 (obstruction of the execution of an official decision), Section 340 (organising and facilitating the illegal crossing of a state

border), Section 341 (aiding and abetting unauthorised stay in the country) and Section 342 (unauthorised employment of foreign nationals).

The complete list of legislation applicable to irregular migration, along with brief descriptions, can be found below.

A. Constitutional Order of the Czech Republic

- Constitutional Act No. 1/1993 Coll., the Constitution of the Czech Republic, as amended;
- Resolution of the Presidium of the Czech National Council No. 2/1993 Coll., on declaration of the Charter of Fundamental Rights and Freedoms to be a part of the constitutional order of the Czech Republic, as amended (namely Article 14(5) – a foreign national can be expelled only in the cases defined by law).

B. Acts and Implementing Regulations

- Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic and on changes to some Acts, as amended;
- Act No. 500/2004 Coll., the Administrative Code, as amended;
- Act No. 150/2002 Coll., the Code of Administrative Procedure, as amended;
- Act No. 99/1963 Coll., Code of Civil Procedure, as amended.

C. International Agreements

- Convention on the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols No. 3, 5 and 8, as amended (the Communication by the Federal Ministry of Foreign Affairs No. 209/1992 Coll.);
- Convention on the Rights of the Child, as amended (the Communication by the Federal Ministry of Foreign Affairs No. 104/1991 Coll.);
- Readmission agreements with the following countries: Federal Republic of Germany, Slovak Republic, Republic of Poland, Republic of Hungary, Republic of Austria, Republic of Bulgaria, Romania, Republic of Slovenia, Republic of Croatia, Republic of Moldova, Canada, Vietnamese Socialist Republic, Republic of Armenia.

D. Legislation of the European Union

- Convention on the Implementation of the Schengen Agreement of 14 June 1985, as amended by subsequent EU legislation
- Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006, establishing a Community Code on the rules governing the movement of persons across borders (Schengen Border Code), as amended by Regulations No 296/2008, 81/2009 and 265/2010;
- Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation);

- Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals;
- Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence;
- Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air;
- Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;
- Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals;
- Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals;
- Council Decision of 23 February setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals (2004/191/EC);
- Council Decision of 26 May 1997 on the exchange of information concerning assistance for the voluntary repatriation of third-country nationals (1997/340/EC);
- Council Decision of 16 December 1996 on monitoring the implementation of instruments adopted by the Council concerning illegal immigration, readmission, the unlawful employment of third country nationals and cooperation in the implementation of expulsion orders (1996/749/EC);
- Council Resolution of 4 December 1997 on measures to be adopted on the combating of marriages of convenience (97/C 382/01);
- Council Resolution of 26 June 1997 on unaccompanied minors who are nationals of third countries (97/C 221/03).
- Readmission agreements of the European Union with the following countries: Hong Kong Special Administrative Region of the People's Republic of China, Macao Special Administrative Region of the People's Republic of China, Democratic Socialist Republic of Sri Lanka, Republic of Albania, Ukraine, Russian Federation, Republic of Moldova, Former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, Montenegro and Republic of Serbia, Georgia.

2.1.3. Penalties/Sanctions in the Event of Irregularity

In connection with an irregular entry into and residence in the country, the Czech legislation, specifically Act No. 40/2009 Coll., the Criminal Code, as amended, recognises the following crimes:

§ 168 – human trafficking;

§ 340 – organising and facilitating irregular crossing of a state border;

§ 341 – abetting unauthorised residence in the territory of the Czech Republic;

§ 342 – unauthorised employment of foreign nationals.

The criminal penal is prescribed for the actors of these crimes (i.e. the perpetrators – those who traffic in people, abet unauthorised residence, etc.), not for the objects (victims) of these crimes. A natural person and, as of 01/01/2012, also a legal entity can be the perpetrator. The criminal liability of legal entities is defined in the Act on Criminal Liability of Legal Entities and Proceedings against Them, which became effective on 01/01/2012.⁹

If a foreign national remains in the territory of the Czech Republic although a penalty of expulsion has been imposed on him/her or if a decision on his/her administrative expulsion has been made, he/she can be found guilty of the crime of obstructing the execution of an official decision and expulsion within the meaning of Section 337 of the Criminal Code. However, this does not constitute a penalty for the actual irregular entry or residence, but rather a penalty for failure to respect the decision of an administrative authority or a court.

2.1.4. Changes in the Legislation Concerning Irregular Migration

As concerns Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic, legislative changes towards harmonisation of this Act with European legislation have taken place during the last several years; and this concerns particularly the following Directives of the European Parliament and of the Council:

Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (provisions of Section §42e – residence permit for the purpose of protection in the territory; Sections §48a and 126a).

Directive 2008/115/EC, known as the Return Directive, has been reflected in Act No. 326/1999 Coll. in the provisions of Section 123a (defining the possibility of the costs associated with the return of a foreign national on whom administrative expulsion was imposed being paid by the Ministry of the Interior, if this is in the public interest) as well as

⁹ Act No. 418/2011 Coll., on Criminal Liability of Legal Entities and Proceedings Against Them.

in the contents of Chapter XI by introducing the provisions of Sections 123b and 123c and amending Sections 124, 125, 128 and 129.

Directive 2009/52/EC, known as the Sanction Directive, has been reflected primarily in the new substantive criminal-law legislation in the form of the Criminal Code, Act No. 40/2009 Coll., which became effective as of 01/01/2010, by introducing a new crime of unauthorised unemployment of foreign nationals in Section 342.

A detailed list of legislative changes relating to irregular migration and their descriptions can be found below.

□ *Amendment to the Act on the Residence of Foreign Nationals (Act No. 428/2005 Coll.):*

As a result of this amendment, Title XII, which governs the issues related to the placement of foreign nationals in the detention facility for foreign nationals (DFFN), underwent some changes. The amendment was implemented in response to repeated criticism concerning the internal facility rules, voiced by non-governmental organisations and supported also by the Government's Officer for Human Rights and the Public Defender of Rights. The changes were based on the principle that restriction of the rights and freedoms of the detained foreign nationals should not exceed the degree necessary for accomplishing the purpose of detention. Besides that, special conditions have been defined in accordance with the Convention on the Rights of the Child for detention of children aged between 15 and 18, staying in the country unaccompanied by a statutory representative.

The authorisation to establish and operate DFFNs was transferred from the police to the Ministry of the Interior, which created an opportunity for DFFN internal rules to approach those for asylum facility reception centres. The purpose was the overall humanisation of DFFNs by placing a greater emphasis, among other things, on leisure time activities, movement around the premises and mandatory school attendance for children under the age of 15.

□ *Amendment to the Act on the Residence of Foreign Nationals (Act No. 161/2006 Coll.):*

A substantial change was the introduction of a new legislative provision for issue of a long-term residence permit for the purpose of protection of foreign nationals, which applies particularly to the cases defined by the Council Directive 2004/81/EC. Also, Directive 2003/109/EC (concerning the status of third-country nationals who are long-term residents) and Directive 2004/38/EC (on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States) were transposed to the Act. The provisions on administrative expulsion of foreign nationals have been amended with regard to the above.

□ *Amendment to the Act on the Residence of Foreign Nationals (Act No. 165/2006 Coll.):*

The legal rights of expelled foreign nationals have been reinforced by making examination of the existence of an obstacle to leaving the country (Section 179) a part of the decision-making on administrative expulsion, and the police does not carry out such examination itself but rather requests the opinion of the Ministry of the Interior of the CR.

□ *Amendment to the Act on the Residence of Foreign Nationals (Act No. 170/2007 Coll.):*

Transposition of the European Union legislation in connection with putting SIS into operation.

The conditions governing the residence of foreign nationals who are in breach of the obligation to leave the territory of the Czech Republic within the set time limit have been made more stringent. Such action is regarded as material breach of public order, and this is a reason authorising restriction of the personal liberty of such a foreign national. Before the actual departure occurs (with the assistance of the police), the foreign national is detained.

Some provisions applying to foreign nationals who are placed into DFFNs have been made more specific. The recommendations from the Public Defender of Rights, which were contained in the summarised report on visits to DFFNs have been implemented. In connection with the option of voluntary return (repatriation) of these foreign nationals, the issue of payment of the costs associated with the return of the foreign national to the country, whose citizen he/she is, or to some other country, which will permit the foreign national to enter its territory, was addressed.

□ *Ruling of the Constitutional Court promulgated in the Collection of Laws under no. 47/2009 Coll.:*

The Constitutional Court revoked the provision of Section 171(1)(c) of the Act on the Residence of Foreign Nationals, which excluded judicial review of a decision on administrative expulsion of a foreign national in the event that the foreign national had been staying in the territory or in the transit area of an international airport on an unauthorised basis before the proceedings on the administrative expulsion were started.

□ *Amendment to the Act on the Residence of Foreign Nationals (Act No. 427/2010 Coll.):*

Transposition of the Directive 2009/52/EC (providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals), the purpose of which is to prescribe common penalties and measures against employers of third country nationals who are staying in the territories of the Member States on an unauthorised basis and to implement such measures effectively.

Transposition of the Directive 2008/115/EC on common standards and procedures in Member States for repatriation of illegally staying third-country nationals, which establishes a set of rules applicable to all third country nationals who do not meet or ceased to meet the conditions for entering or staying in a Member State, with the purpose of defining clear, transparent and fair rules for an effective return policy as the indispensable component of a well-managed migration policy.

The Ruling of the Constitutional Court No. 47/2009 Coll. (see above) was also acted upon. As a result of revocation of the provision of Section 171(1)(c) of the Act on the Residence of Foreign Nationals, even a group of foreign nationals is entitled to file a legal action according to this provision, and this legal action has a suspensive effect according to the law. The judicial practice of the Supreme Administrative Court concerning the legal position

concerning reimbursement of the costs of administrative expulsion was also reflected in Section 123 of the Act on the Residence of Foreign Nationals (i.a. verdict 3 As 7/2009 – 493) and in the definition of persecution and the agents of persecution (verdict 5 Azs 50/2008-624).

2.1.5. Legislation Not Related Directly to Irregular Migration

As concerns the legislation which is not directly related to irregular migration and yet affects this area in a certain way, we have chosen to list the following Acts:

- Act No. 435/2004 Coll., on Employment, as amended.

We can see the connection between this Act and the issues of irregular migration particularly in the following respects. In 2006, in connection with amendment to Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Territory of the Czech Republic, the Act on Employment No. 435/2004 Coll., the provision of Section 87, with an aim to increase the awareness of governmental employment agencies about employment of EU citizens and some categories of third country nationals residing in the territory of the CR on a long-term basis. In 2010, in connection with amendment to Act No. 326/1999 Coll., the Act on Employment No. 435/2004 Coll. was amended with an aim to broaden the range of monitoring authorities which are authorised to inspect the working conditions of foreign nationals, by including customs authorities among them in Section 126.

- Act No. 325/1999 Coll., on Asylum and on a change to Act No. 283/1991 Coll., on the Police of the Czech Republic, as amended (the Asylum Act).

The Asylum Act is based particularly on the principles of the international refugee law and therefore it basically enables any foreign national who present in the territory of the Czech Republic to apply for international protection. Formally, this act is subject only to a minimum number of rules and therefore it is a very simple action. Filing an application for international protection is thus often perceived as the easiest way of “regularising” one’s stay in the territory of the Czech Republic at least for a certain period of time in order to postpone, for example, impending expulsion.

2.2. Institutional Framework

Migration issues and the issue of irregular migration fall within the terms of reference of several authorities. **The Ministry of the Interior of CR (MoICR)** is the main authority in charge of dealing with international migration and asylum, both on a legislative level and on the level of implementation. Within the Ministry of the Interior of the CR, the Department of Asylum and Migration Policy (DAMP) deals with migration-related matters; some powers, namely on the implementation level, are held by the Police of CR – Directorate of the Foreign Police Service and the foreign police departments of the regional police directorates, the Organised Crime Detection Unit of the PCR (OCDU) and the Refugee Facilities Administration (RFA). The MoICR Department of Security Policy is responsible for performing

analytical and strategic activities and for creating strategies concerning organised crime and human trafficking.

The Department of Asylum and Migration Policy is responsible for policy-making in the area of international protection, regular and irregular migration, including readmission and return policy. It is also in charge of the policy for the protection of borders and Schengen cooperation. Moreover, it is also the creator and coordinator of the policy for integration of foreign nationals and persons under international protection. On the implementation level, DAMP provides execution of public administration not only in proceedings on international protection but also in residency proceedings. The agenda of permanent residence and, since 01/01/2011, also the agenda of long-term visas and long-term residence, including the residence of EU citizens and their family members are within DAMP's terms of reference.

Police of CR – Directorate of the Foreign Police Service and foreign police departments of the regional police directorates – performs the tasks related to the protection of borders, detection of irregular migration, application of repressive measures against foreign nationals staying in the territory of the CR in violation of Act No. 326/1999 Coll.¹⁰ and detection of crimes perpetrated in connection with crossing of state borders and with cross-border criminal activities.

The Organised Crime Detection Unit of the Criminal Police and Investigation Service (OCDU CPIS) of the PCR concentrates mainly on detecting more serious crimes. In connection with irregular migration, this includes particularly combatting human smuggling, human trafficking, forced labour and other forms of exploitation.

The Refugee Facilities Administration is an organisational unit of the government, set up by the Ministry of the Interior of CR. The RFA operates reception, accommodation and integration asylum centres, at which it provides in particular accommodation, boarding, psychological, educational and consultation services and also provides opportunities for leisure time activities. Most of these activities also take place in the detention facilities for foreign nationals, which are also operated by the RFA. Since 2009, the RFA has been providing services in the Foreign Nationals Integration Support Centres, which are being newly set up.

Department of Security Policy of the Ministry of the Interior of the CR is responsible for performing analytical and strategic activities and for creating strategies concerning organised crime and human trafficking. Every year, the department prepares a *Report on the Situation Concerning Inner Security and Public Order*, providing comprehensive information on the developments in the security situation in the CR.¹¹

Besides the Ministry of the Interior, the issues of irregular migration to a greater or lesser extent also fall within the terms of reference of other authorities. Pursuant to Act No.

¹⁰ Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Territory of the Czech Republic and on changes to some Acts, as amended.

¹¹ The report is available on the website of MoICR.

435/2004 Coll.¹², the **Ministry of Labour and Social Affairs (MoLSA)** defines the group of entities playing the role of an employer and, in relation to foreign nationals, it defines the criteria for access of the individual categories of foreign nationals to the labour market. MoLSA is in charge of the *Inter-ministerial Authority for Combating Illegal Employment of Foreign Nationals in the Czech Republic*, which deals with irregular employment of foreign nationals.

The State Employment Agency of the CR functioning under the MoLSA permits employment of foreign nationals based on the situation on the labour market and also performs, in close cooperation with the Police of CR and customs administration authorities, checks on irregular employment.¹³

Customs offices¹⁴, similarly to the regional branch offices of the State Employment Agency, check compliance with the obligations defined by the Employment Act.¹⁵ **Trade Licensing Offices**¹⁶ also carry out checking activities in relation to the foreign nationals registered in the Trade Register. The Trade Licensing Offices check on whether the Trade Licensing Act and the laws relating to business are not violated.

The issues of irregular migration also partially extend into the sphere of the **Ministry of Foreign Affairs (MFA)**. The MFA is responsible for issuing Schengen visas; Czech embassies and consular offices abroad also accept applications for long-term visas for a stay of over 90 days and long-term residence permits; these applications are then sent to DAMP worksites for decision-making.

Some issues are addressed in cooperation with the **Ministry of Justice** and the **Ministry of Transport**.

2.2.1. Inter-ministerial Cooperation

Cooperation between institutions concerned with irregular migration, is of fundamental importance for policy-making on irregular migration and for implementing measures for reducing irregular migration. Within the Ministry of the Interior, there is close cooperation between DAMP, the RFA and the individual units of the Police of the CR. With regard to inter-ministerial cooperation, the main forms of this cooperation are summarised below.

An important role in monitoring migration in the territory of the Czech Republic, including all the related phenomena, is played by the **Analytical Centre for the Protection of State Borders and Migration** (hereinafter referred to as the “Analytical Centre”). This is an inter-

¹² Act No. 435/2004 Coll. on Employment, as amended.

¹³ The staff of other authorities, such as regional Labour Inspectorates and the Czech Social Security Administration, also participate to a lesser extent in the inspections carried out by the branch offices of the State Employment Agency of the CR.

¹⁴ Customs offices are in the ministerial sector of the Ministry of Finance of the CR.

¹⁵ Act No. 435/2004 Coll., Act on Employment, as amended.

¹⁶ The Trade Licensing Offices are within the terms of reference of the Ministry of Industry and Trade of the CR.

ministerial authority which includes four forums with specific themes: the Migration Forum; the Visa Forum; the Operations and Security Forum; and the Strategy Forum.¹⁷ In the analytical Centre, all the Ministries involved in the issues of the protection of borders and migration are represented,¹⁸ which allows for flexible and quick responses to problems that arise. The outputs of the Centre can be used as a source material for management of the Czech migration policy and for making political decisions in this field. The authority in charge of the Analytical Centre is the DAMP of the MoICR.

The activities of the Analytical Centre are monitored by the **Coordination Authority for Management of the Protection of the State Borders of the CR** (hereinafter referred to as the “Coordination Authority”), which regulates the measures taken to protect the state borders and to address migration at a senior officials level with decision-making powers or at the level of deputies to the ministers of the selected ministries.¹⁹

Coordination and cooperation in the fight against irregular employment of foreign nationals is ensured by the **Inter-ministerial Authority for Combating Illegal Employment of Foreign Nationals (IACIEFN)**, which is managed by the Ministry of Labour and Social Affairs.

2.2.2. Cooperation of Governmental Institutions with Non-governmental Organisations and the International Organisation for Migration

As regards irregular migration the cooperation of governmental institutions with non-profit non-governmental organisations (NGOs) and international organisations, particularly the International Organisation for Migration (IOM) is also important; this cooperation is significant particularly on the implementation level.

With regard to the implementation of the programme of voluntary returns, the MoICR has been closely cooperating with the Prague office of the International Organisation for Migration (IOM Prague) on a long-term basis. The IOM ensures not only the actual implementation of a voluntary return but also provides the related advice and assistance essential for successful implementation of the return. The IOM provides information on voluntary returns, particularly for foreign nationals placed in detention facilities for foreign nationals, gives advice to foreign nationals under obligation to leave the territory of the

¹⁷ The Migration Forum focuses on monitoring the situation concerning the residence of foreign nationals in the territory of the Czech Republic; the Visa Forum monitors visa policy and practice; the Operations and Security Forum flexibly assesses the security risks associated to the protection of state borders and irregular migration. The uniting element of the Analytical Centre is the Strategy Forum, which is responsible for formulating comprehensive opinion statements on the protection of borders and the migration reality in the Czech Republic.

¹⁸ The Ministry of the Interior, including the Police of the Czech Republic; the Ministry of Foreign Affairs; the Ministry of Transport; the Ministry of Finance; the Ministry of Labour and Social Affairs; the Ministry of Industry and Trade and the Ministry of Justice.

¹⁹ The same institutions are represented in the Coordination Authority as in the Analytical Centre, meaning representatives of the Ministry of the Interior, including the Police of the Czech Republic; the Ministry of Foreign Affairs; the Ministry of Transport; the Ministry of Finance; the Ministry of Labour and Social Affairs; the Ministry of Industry and Trade and the Ministry of Justice.

Czech Republic, who have not been placed in a detention, provides assistance in communication with the embassies of the countries concerned, most often in connection with the process of obtaining a substitute travel document, ensures actual return, and, if necessary, it also provides the returned foreign nationals with transit and post-arrival assistance.

Besides voluntary returns, the International Organisation for Migration has participated in a number of other projects in cooperation with the MoICR. The IOM is a partner of the MoICR in the project entitled Georgian Returnees Reintegration Support and in implementation of the readmission agreement between the EU and Georgia. In the past, several projects of foreign development assistance were implemented in cooperation with the IOM, and training sessions about irregular documents, for example, for Jordan, Iraq, Moldova, Armenia, Georgia and Kyrgyzstan were organised in cooperation with the IOM.

Moreover, the MoICR cooperates with non-profit non-governmental organisations in the implementation of the *Programme of Support for Combat against Illegal Migration* ("Programme").²⁰ The goal of this Programme is to ensure efficient cooperation among persons who were assisted in their illicit immigration, the authorities responsible for criminal proceedings and other entities involved in detection and clarifying of the crimes concerned as well as in creation of preventive measures, with all this being combined provision of the necessary care for the persons concerned and possibly even for their family members found in the territory of the CR.

With this purpose in mind, the Programme includes a system of cooperation among the separate entities involved.²¹ The first stage of the Programme is focused on identifying potential witnesses, who are continuously provided with comprehensive information on the Programme, legal consultancy and any social and psychological assistance that may be necessary, for them to make a decision to cooperation with the authorities responsible for criminal proceedings or to voluntarily return under conditions that are objective to the maximum possible degree. The second stage is focused on problem-free course of the criminal proceedings and support of witnesses, aimed at supporting their possible social integration and integration into normal life.

The non-profit sector, in cooperation with governmental authorities, plays an important role in prevention of irregular migration and irregular employment of foreign nationals as well as in the activities focused on efforts oriented on foreign nationals with irregular statuses or in assistance in resolving the problems of a foreign national with an irregular status.

²⁰ This Programme was created by the Department of Asylum and Migration Policy of MoICR in accordance with the *Principles of the Governmental Policy for Migration of Foreign Nationals*, defined in the Resolution of the Government of the Czech Republic No. 55 of 13 January 2003. The Programme was approved by the Resolution of the Government of the Czech Republic No. 502 of 16 May 2007.

²¹ The relevant authorities responsible for criminal proceedings, non-profit non-governmental organisations, the International Organisation for Migration, the Police of CR, the Refugee Facilities Administration of the MoICR and DAMP of the MoICR, which is the main coordinator of the activities performed within the Programme, participate in the system that has been created.

3. PRACTICAL MEASURES TO REDUCE IRREGULAR MIGRATION

This chapter is divided into four sub-chapters, each of which gives examples of the types of measures implemented by the Czech Republic to address irregular migration. These are measures implemented in connection with the period before entry into the country, at the time of their entry into the country - these measures are also measures aimed at detecting irregular migrants at the border, during their stay in the country, and measures that offer irregular migrants an opportunity to “step out of their irregular status”, for example, by participating in the programme of assisted voluntary returns.

3.1. Pre-Entry: Practical Measures Undertaken to Address Irregular Migration Before the Migrant Arrives in the CR

3.1.1. Informational Activities Aimed at Prevention

Awareness Raising Projects Before Foreign Nationals Leave the Country of Origin – Mongolia

The preventive measures aimed at raising awareness of foreign nationals about various risks associated with migration are very important; in this connection, the Department of Asylum and Migration Policy has implemented several projects in the past. At the turn of the years 2008 and 2009, a project aimed at raising the awareness of Mongolian labour migrants about the conditions in the labour market and the living costs in the CR, about the obligations and rights of migrants and the possibilities of assistance in addressing matters related to the residence status was launched in cooperation with the International Organisation for Migration. The information campaign took place simultaneously in Mongolia and the Czech Republic. It specifically involved the following:

- a media campaign in Mongolia implemented through television channels and in printed media;
- creating a website in the Mongolian language with a summary of information on the labour market, the residence statuses, the obligations and rights of migrants, the network of non-profit organisations assisting migrants;
- creating informational brochures, which were then inserted into the passports of the holders of work permits and other long-term visas at the embassy of the CR in Mongolia; these brochures also contained information on the labour market and industrial relations, the residence statuses, including the contact details of non-profit organisations and warnings about the practices of intermediary agencies and individual intermediaries;
- and creating informational brochures, which were distributed among the members of the Mongolian community in the CR, particularly with information on the programme of voluntary returns and the programme for support and protection of victims of human trafficking.

In the second stage of the project, entitled *Continuation of the Informational Campaign to Prevent Illegal migration of Mongolian Citizens*, a documentary was created and distributed; the theme of the documentary was labour migration of Mongolian citizens in the CR and

true stories of labour migrants were shown in the documentary. Also, a short instruction film was made to illustratively instruct Mongolian migrants how to proceed, for example, when applying for a work visa.

Assistance System for Employment of the Citizens of Ukraine in the CR

Another informational activity in the field of prevention is the *Assistance System for Employment of the Citizens of Ukraine in the CR*, which was created by merging a Department of Asylum and Migration Policy of the MoICR project entitled *Prevention against Abuse of Labour Forces in the European Labour Market with a Focus on the CR* and the MoLSA public procurement contract entitled *Implementation of Activities for Prevention against Illegal Labour Migration to the CR from Ukraine*. Charita ČR implemented the whole system.

The system was set up in an effort to address the following:

- the growing problem of what is referred to as “client system” and irregular intermediation of work;
- the need to better inform potential labour migrants about the regular forms of labour migration and employment in the CR and about the risks of irregular courses of action;
- the need for more efficient management of labour migration, including short-term and circular migration.

The system was focused on providing potential migrants with information so that they were able to make an informed decision on immigration to the CR; the information included warnings about the risks of irregular migration. Its purpose also was to create a regular alternative to the “client system”, i.e. to offer similar services and individual assistance (to organise contact between employers and future employees, including arranging work in the CR, social-legal consultancy, assistance particularly in filling out applications for the necessary permits and assistance when approaching the state authorities).

3.1.2. Methods of Verification before Entry into the Country

Verification in Connection with Issue of Visas

The procedures for and conditions of issue of visas for the purpose of transit through a Member State or a planned stay in its territory not exceeding three months during any six-month period, are defined in the Visa Code. When an application for a uniform visa is examined, it is checked whether the applicant meets the conditions for entry into the country defined in Article 5(1)(a), (c), (d) and (e) of the Schengen Border Code. It is also examined whether or not the applicant poses a risk with regard to irregular migration or the security of the Member States and whether he/she intends to leave the territory of Member States before the validity of the visa expires. The said conditions are verified by the consulate by checking the validity and the authenticity of the documents, by verifying the purpose and conditions of the intended stay, including possession of sufficient funds for day-

to-day life and subsequent return. A check is also made as to whether or not entry has been denied to the applicant in SIS, whether or not he/she does poses a threat for the public order, internal security, public health or international relations of any of the Member States and whether he/she or not has valid travel medical insurance. The assessment of the application is based mainly on the authenticity and reliability of the submitted documents and truthfulness and reliability of the statements made by the applicant. When applications are examined, consulates may invite the applicant to an interview and request additional documents in justified cases.

Invitations are also checked. In this case, the situation of the inviting party is usually scrutinised, i.e. a check is performed on whether the inviting person is able to meet their obligations. This measure addresses particularly the specific problem concerning possible financing of medical care received by a foreign national in the territory of the CR.

In connection with granting visas, a check is also made as to whether or not a foreign national has filed repeated applications for visas for different purposes in an attempt to obtain a uniform Schengen visa or a long-term visa “for any purpose”, i.e. with an aim of entering the territory of a Member State of the Schengen area and operate there regardless of the purpose of the stay defined in the granted visa.

Prior Consultations and Information on Issued Visas

Consultations referred to as “prior consultations” are a mechanism where not only the state issuing the visa carries out security screening but also another Schengen state requiring this does so in the case of applicants from pre-defined countries to whom a Schengen visa is to be issued. Similarly, a Member State may request that information on the visas issued to third country nationals be sent to it *ex-post*.

VIS

The Visa Information System (VIS) is the common electronic database system for Schengen states, which contains data on third country nationals who apply for Schengen visa. VIS is used by the embassies of Member States when they process applications for visas and by authorities responsible for carrying out border checks at border crossings. Besides that, it is possible to use VIS within the territories of Member States when verifying or identifying the identity of persons and, in certain cases, it can also be used as part of prevention, detection and investigation of terrorist crimes and other serious crimes. VIS significantly improves the efficiency of visa granting proceedings and eliminates some of the weak points of the visa process because the embassy of any Member State has the complete “visa history” of the applicant at its disposal and this makes it impossible to use the practice of what is known as “visa shopping” (the practice of repeatedly filing applications with consulates of various member States and circumventing the criteria for determining the Member State responsible for examining the application). Besides standard personal data, VIS also contains biometric data, specifically a digitized photograph and fingerprints. This eliminates the risk of identity confusion in the visa process, the risk of travelling “on a similar appearance” or the risk of forging visa and makes border checks more efficient.

Liaison Officers for Migration and Documents

Sending out liaison officers for migration and documents to the Czech Republic's embassies abroad helps reduce irregular migration. In the past, the liaison officers exposed a number of forged documents; thanks to their activities, the process of receiving applications for visa for a stay of over 90 days has been improved and the interviews with applicants have been made more efficient.²²

3.2. Entry: Practical Measures Undertaken to Identify and Detect Irregular Migrants at Borders

3.2.1. At the External Border

Before arrival to the country by plane, data known as **API (Advance Passenger Information)** are used. These are **lists of passengers**, which are requested from air carriers for selected flights (or, more precisely, on all regular flights from selected countries). This information is verified and analysed according to specific criteria and the selected passengers are more thoroughly scrutinised after their arrival. API significantly helps to detect cases of irregular migration.

At the time of entry and after entry into the country, several measures are carried out. On flights considered to be risk flights with respect to internal security and irregular migration, **checks at the exit from the plane** (gate checks) are used, which make it possible to prevent a person who does not meet the conditions for entry into the country (for example, who does not have a travel document) from entering the country. **Patrols and checks of whether a person's stay in the transit area of an international airport is authorised** are also carried out; this allows for detecting persons who are staying in a transit area on an irregular basis (for example, persons who are required to hold a visa to stay in the transit area) and for monitoring suspicious passengers (for example, based on profiles and risk analysis with a focus on irregular migration) and the places where irregular activities take place (for example, an exchange or hiding of travel documents and other documents in order to conceal the true identity of the passenger).

As for **border checks**, these checks are basically carried out with all persons crossing the external border. The system of border checks is organised in such way so that passengers are not unreasonably delayed, but it should identify those passengers who require more attention in connection with irregular migration. With respect to organisational structure, the check is divided into the 1st and 2nd routes I and II where route I is passport/ID control for

²² The project for sending liaison officers for migration and documents to the CR's embassies abroad has been implemented since 2006. In 2006, 5 liaison officers were sent in this way; in 2007, 6 liaison officers were sent in total; in 2008, 9 liaison offers were sent to a total of 7 embassies; in 2009, 8 liaison officers were deployed at 7 embassies and in 2010, there were 14 liaison officers deployed. In 2011, a total of 12 liaison officers for migration and documents went to embassies and they were deployed in the following cities: Abuja (1 liaison officer); Ankara, with a short-term mission to CR's embassy in Istanbul (1 liaison officer); Astana (1), Delhi (1), Hanoi (1), Cairo (2), Kiev (1), Lvov (1), Moscow (2) and Ulaanbaatar (1).

EU citizens. In both lines, police officers have knowledge of risk passengers, travel documents or flights, based on the results of risk analysis, passenger profiles, detected cases and other information. In both lines, information systems are also used, which make it possible to check whether the given person is in the registers of persons of interest or to verify the authenticity of travel documents. Thorough border check is carried out for all third country nationals and it consists of a thorough inspection and verification of compliance with all the requirements related to entry into, stay in and departure from the country.

In the public areas of an international airport, there are also patrols which focus on monitoring passengers.

3.2.2. At the Internal Border

In accordance with the Schengen acquis, border checks or any other comparable measures are not carried out on the internal border. Nevertheless, on the internal border of an international airport, there are patrols and there are random checks of persons staying in the non-public area of an international airport, which make it possible to detect persons irregularly staying in the country; these activities are also based on the results of a risk analysis. On the internal land border, the **concept of joint patrols**²³ is used to secure the protection of the public order, with the information and coordination support from the joint information centres.

3.3. Stay: Practical Measures Undertaken to Control Irregular Migration in the CR

3.3.1. Information Activities Aimed at Prevention

Similarly as in connection with the period before entry into the country, during a foreign national's stay in the country, the awareness raising measures are taken in order to prevent a foreign national from entering an irregular status as a result of lack of the information. Examples of the projects and informational activities carried out by DAMP MoICR in cooperation with other partners are stated in section 3.1.1 *Informational Activities Aimed at Prevention*. These activities mainly included projects focused on Mongolian (labour) migrants and on labour migration from Ukraine to the CR. The informational campaigns and activities carried out within these projects took place simultaneously in the territory of the CR and in the country of origin.

3.3.2. Methods of Carrying out Checks inside the Country

As for the measures for controlling irregular migration in the country, checks referred to as **residence checks** are often used in the CR. Residence checks are carried out in various forms and their purpose is mainly to verify whether the foreign national is in compliance with the

²³ This form of cooperation is used with all the states neighbouring with the Czech Republic.

declared purpose of his/her stay. Targeted residence checks are focused on a specific negative phenomenon such as irregular employment of foreign nationals or places where the presence of irregularly staying foreign nationals can be expected (hostels, railway stations). During **proceedings for extension of a stay in the country**, the foreign national's compliance with the declared purpose of his/her stay is also verified.

Checks in the country aimed at detecting irregular migration are also carried out in the form of **checks of transiting road and railway transport** throughout the territory of the Czech Republic, if possible in cooperation with other governmental authorities, and with the use of technical means.

3.4. Pathways out of irregularity

3.4.1. Assisted Voluntary Returns

The possibility of “stepping out of an irregular status” is offered to the foreign nationals staying in the territory of the CR on an irregular basis particularly by the programme of assisted voluntary returns. Return programmes not only tackle the issue of persons staying in the country on an irregular basis but also aim to prevent irregular migration as such. In the Czech Republic, three types of permanent programmes make up the return policy at present, while the programme which has been in operation the longest is the return programme for applicants for international protection, which has been operating in various forms since as early as the mid-1990s. The second type of programme concerns foreign nationals staying in the country on an irregular basis who have been issued administrative expulsion – these are foreign nationals without travel documents or detained foreign nationals. The third type of returns is represented by the programme designed to provide support and protection for victims of human trafficking.

Programme of Returns for Failed Applicants for International Protection

For this group of foreign nationals, assisted voluntary returns are sometimes referred to as repatriation.

Programme of Returns for Foreign Nationals Staying in the Country on an Irregular Basis

These are either third country nationals for whom a time limit for leaving the territory of the CR was set by a decision on administrative expulsion or foreign nationals who have been detained with regard to a decision on administrative expulsion.

Programme of Support and Protection for Victims of Human Trafficking

Under this programme, persons who were victims of human trafficking are enabled to return to their countries of origin.

In addition to these permanent programmes, two limited-term projects were implemented in 2009. These projects were created in response to the need to face the impacts of the economic crisis. Specifically, they included a voluntary return project focusing on returns of

foreign nationals staying in the country on a regular basis; and the other project was focused on returns of foreign nationals staying in the country on an irregular basis.

Project for Returns of Foreign Nationals Staying in the Country on a Regular Basis

The project was prepared as one of the measures aimed at addressing the consequences of the economic crisis because a number of foreign nationals coming to the CR as an unskilled labour force, which used to be in demand, lost their job opportunities. The implementation of the first stage of this project started on 16 February 2009 and ended on 24 July 2009. The second stage of the project took place from 27 July 2009 to 15 December 2009.

Project for Returns of Foreign Nationals Staying in the Country on an Irregular Basis

This project was focused on the returns of foreign nationals staying in the territory of the CR on an irregular basis, regardless of whether they got into this position as a result of the economic crisis or otherwise. The project was limited in time from 15 September 2009 until 15 December 2009.

Legal Status of a Migrant Who Decides to Enter the Programme of Assisted Voluntary Returns

From the legal point of view, the foreign nationals who are staying in the country on an irregular basis and who decide to participate in the programme of assisted voluntary returns become persons staying on a regular basis. With regard to their previous unauthorised stay, the Police of the CR will issue an exit order in the decision on administrative expulsion and this exit order temporarily “regularises” their stay in the CR during the period of validity of such exit order.

Situations Where a Return Is Difficult

The returns referred to as forced returns of those foreign nationals who have been detained but are not interested in participating in the programme of voluntary returns for detained foreign nationals are problematic. It is very difficult to carry out the returns of foreign nationals from this group particularly due to the fact that it is not possible to identify most of the foreign nationals – they usually do not have travel documents and do not cooperate in the process of establishing their identities. It is also often fairly difficult to compel the country concerned to comply with its responsibility to admit its citizen back.

3.4.2. Other Options for Addressing Irregular Status

If a foreign national is prevented from leaving the territory of the Czech Republic by an obstacle beyond his/her control or his/her departure is not possible, he/she will be granted, upon request, **a visa for a stay of over 90 days permitting exceptional leave to remain in the country**. This concerns the following cases:

- Section 179 of the Foreign National Residence Act

There is a well-founded concern that if the foreign national were returned to the state, whose citizen he/she is, or to the state of his/her last permanent residence, if he/she is a stateless person, he/she would face an actual risk of a serious harm and that he/she is unable or unwilling, due to such risk, to avail himself/herself of the protection of the country of which he/she is a citizen or the country of his/her last permanent residence. A serious harm is deemed to be:

- sentencing to or execution of a death penalty;
- torture, inhuman or degrading treatment or punishment;
- serious threat to life or human dignity for the reason of arbitrary violence in a situation of international or internal armed conflict; or
- where the foreign national's leaving the territory would be in conflict with international commitments of the Czech Republic.

The obstacle to departure does not apply in the following cases:

- the foreign national has committed a crime against peace, a war crime or a crime against humanity in the sense of international documents governing these criminal acts;
- the foreign national has committed extraordinarily serious crime,
- the foreign national has committed crimes in conflict with the principles and objectives of the United Nations; or
- the foreign national represents risk for state security;

as well as in cases where the foreign national incites others to commit the crimes mentioned in Subsection (3), or participates in the same, or has committed one or more crimes different from those mentioned in Subsection (3) outside the Territory if he/she has left the state of which the foreign national is a citizen, or, in the case of a stateless person, the state of his/her last permanent residence with the aim to avoid criminal prosecution for the same (provided these are acts punishable by sentences of imprisonment in the Czech Republic).

- Section 120 of the Foreign National Residence Act

In the decision-making process on administrative expulsion of a foreign national, it is found that the aforementioned reasons defined in Section 179 apply to the foreign national and therefore it is not possible for the foreign national to leave the country. The police will state this fact in the decision on administrative expulsion and will grant a visa for a stay of over 90 days permitting exceptional leave to remain to the foreign national. Such a foreign national is entitled to apply for international protection immediately after the decision on administrative expulsion has been issued. If the foreign national fails to apply for international protection within two months from the date on which the decision on administrative expulsion became legally effective, the right to apply for international protection will expire (the right to apply for international protection will not expire if the foreign national was unable to file the application for reasons beyond his/her control and if the foreign national files the application within 3 days after such reasons cease to exist).

If the stay of the foreign national who was granted a visa for a stay of over 90 days permitting exceptional leave to remain in the country is longer than 1 year and the obstacle to his/her departure still exists, **long-term residence permit permitting for exceptional leave to remain in the country** (Section 43 of the Foreign National Residence Act) will be issued at his/her request.

If it is found in the proceedings for granting international protection that the foreign national does not meet the requirements for granting asylum but that there is a well-founded concern that if the foreign national is returned to the country of which he/she is a citizen or, if the foreign national is a stateless person, to the country of his/her last permanent residence, he/she would face an actual risk of serious harm pursuant to Subsection 2 (of Section 14a of the Asylum Act) and that he/she is unable or unwilling, due to such risk, to avail himself/herself of the protection of the country of which he/she is a citizen or the country of his/her last permanent residence, he/she will be granted **subsidiary protection** (Section 14a of the Asylum Act). According to the Asylum Act, the following is deemed to be a serious harm:

- sentencing to or execution of a death penalty;
- torture, inhuman or degrading treatment or punishment of the applicant for international protection;
- serious threat to life or human dignity for the reason of arbitrary violence in a situation of international or internal armed conflict; or
- where the foreign national's leaving the territory would be in conflict with international commitments of the Czech Republic.

4. TRANS-NATIONAL COOPERATION IN REDUCING IRREGULAR MIGRATION

This chapter provides a brief overview of cooperation between the Czech Republic and third countries and the Member States of the EU in the field of irregular migration. It also contains information on cooperation with EU agencies and international organisations, particularly the International Organisation for Migration. It also contains a summary of agreements on cooperation, particularly readmission agreements, which the Czech Republic has entered into with third countries and the Member States of the EU.

4.1. Cooperation Agreements

The Czech Republic has signed bilateral readmission agreements with the following countries: the Federal Republic of Germany, Poland, Austria, Slovakia, Slovenia, Hungary, Bulgaria, Romania, Croatia, Moldova, Vietnam, Canada, Armenia and Switzerland. As for the readmission agreements signed by the Community, the agreements with the following countries are in effect: Hong Kong, Macao, Sri Lanka, Albania, Russia, Ukraine, Serbia, Macedonia, Bosnia and Herzegovina, Pakistan, Georgia, Montenegro and Moldova.

Implementing protocols for readmission agreements have been signed with: Poland, Romania, Hungary, the Federal Republic of Germany, Slovenia, Croatia, Slovakia, Moldova, Austria, Vietnam, Armenia and Switzerland. In addition to the readmission agreements with the European Union, until now, implementing protocols with Montenegro and Moldova have been signed; they are presently in the notification process to the EU.

The Czech Republic has signed a Declaration on Partnership for Mobility with Moldova, Georgia and Armenia.

4.2. Forms of Cooperation with Third Countries and the Member States of the EU not Governed by Agreements

For a long time, the Czech Republic has been supporting a close cooperation with the countries of origin and the transit countries along their route to the EU as an effective and financially less demanding tool for preventing irregular migration implemented outside the territory of the EU. In this respect, activities are performed in priority regions with particular focus on the following:

- improvement of the capacities of migration systems of individual countries (including the asylum infrastructure);
- improvement of the mutual cooperation among the individual countries of the region;
- stabilisation of the risk groups in the population of the country of origin with an aim to prevent possible irregular migration to the EU (or, in the case of returnees, repeated irregular migration).

Over the past few years, the three main types of cooperation in the field of irregular migration have been projects of foreign development cooperation, projects for strengthening capacities and projects within the Partnerships for Mobility.

Projects of foreign development cooperation, which mostly combine the element of strengthening the capacities of the given countries with a development element (preventing irregular migration by stabilising the potential risk groups in the population). The MoICR has implemented a number of such projects in Ukraine, Moldova, Georgia and the countries of the South Caucasus, particularly in cooperation with IOM Prague, the People in Need organisation and other entities.

In the area of cooperation with third countries, the **projects for strengthening capacities** are important under the theme-specific programme of the European Commission. The GDISC ERIT Ukraine project is one example of such a form of cooperation. This project was implemented by the CR together with five other Member States of the EU in the years 2008-2010. The project can be described with the following characteristics: involvement of several interested – both “new” and “old” – Member States of the EU; the twinning principle of close cooperation between the governmental migration authorities of the Member States of the EU and those of a third country; the combination of the methods of sharing know-how and investments into the technical infrastructure; and a comprehensive and multi-disciplinary approach. Most projects are implemented by the MoICR with the support of international organisations – the International Centre for Migration Policy Development (ICMPD) and the IOM.

In the area of international cooperation, special attention needs to be drawn to the projects under the **Partnerships for Mobility**. The experience of the CR has shown that thanks to inclusion of several pillars of the Global Approach to Migration, third countries are suitably interested in strengthening their capacities for handling irregular migration, and this strengthening is a condition for implementation of projects for increasing mobility. The Czech Republic actively participates in the Partnership for Mobility with Moldova, Georgia and the newly established Partnership with Armenia. In the case of Georgia, the CR is conducting, in cooperation with IOM Tbilisi, a targeted initiative designed to support reintegration of Georgian returnees and implementation of the readmission agreement; this initiative is the flagship project of the given Partnership. The project includes activities preventing repeated irregular migration of returnees and the awareness-raising campaigns about the risks of irregular migration.

The Czech Republic ascribes a great importance to **political dialogues** and it is most actively engaged in the main dialogue of the EU with the east in the Prague Process. The recently approved Action Plan for this process contains, among other things, a list of activities focused on preventing and combating irregular migration. The CR sees the great added value of this process in the opportunity for regional cooperation among the individual third countries, which is of key importance in the combat against irregular migration.

International cooperation of police forces, aimed at reducing irregular migration, takes place with both EU countries and third countries, particularly in the area of uncovering forged documents, exchanging information and sending liaison officers.

Mutual exchange of information regarding irregular documents discovered as well as authentic documents takes place through the international FADO system administrated and managed by the GSC of the EU Council and filled with information by all the Member States of EU+. When it is necessary to verify the authenticity of a travel document issued by some other Member State of the EU, or when necessary to verify some other information, the national contact points of the Member States of the EU for authentic and forged documents (contacts via Expert FADO or iFADO) are contacted. The CR also attends the regular quarterly meetings of a group referred to as the Antifraud Group, which are held in Vienna with the participation of document specialists and the liaison officers of selected states.

In the context of international information exchange and international cooperation, the direct contacts with embassies or representatives of foreign countries in the CR/for the CR are extremely important. Intensive exchange of information on irregular migration takes place with the countries neighbouring with the Czech Republic. The exchange of information with the Federal Republic of Germany takes place through a liaison officer of the German embassy in Prague and the joint centre of police and customs cooperation in Schwandorf. In cooperation with the Police Presidium in Potsdam, a Common Border Police Situation Report is also prepared. Information is regularly exchanged with Austria through the centre in Drasenhofen. With Poland and Slovakia, information is exchanged on a regular monthly basis.

As part of cooperation with the neighbouring countries of the CR, joint border patrols are organised through employees of police forces. The implementation of joint patrols is planned at regular monthly meetings of the heads of individual departments. Agenda discussed at these meetings includes current problems of the given territories, problems associated with readmission cases, etc.

Training activities are also a significant part of cooperation with third countries. In cooperation with the IOM, the CR has carried out a number of training sessions with a focus on documents, for example, for Jordan, Iraq, Moldova, Armenia, Georgia and Kyrgyzstan.

4.3. Cooperation with the EU and International Organisations

4.3.1. Cooperation with Frontex, a European Agency

As for cooperation with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU, that is, with the Frontex agency, the Czech Republic participates in the agency's joint operations on air and land borders as well as in educational activities and other programmes for cooperation and exchange of statistical data every year.

The Czech Republic regularly attends conferences for the directors of international airports, the objective of which is to improve the efficiency of airport operation and to implement effective cooperation and information exchange among the individual units participating in their operation. Other cooperation projects are focused on harmonising working procedures and on implementing the best practices within the Schengen area. These mainly include the pilot projects "PP Reference Manual", "PP Vega", "PP Traffic Light", "PP Big Dipper", and "PP

Argonauts". In the field of education, these projects include in particular projects for educating police officers included in the team to be sent to joint operations (FJST/RABIT).²⁴

As for exchange of statistical data, the Police of CR uses the information gathered during joint operations at air borders. This concerns the operations **JO HUBBLE, JO MIZAR, FOCAL POINT AIR and JO HAMMER**.

A network referred to as the Frontex Risk Analysis Network (FRAN) has become very important for mutual information exchange. It is a system for exchange of statistical and analytical information among the Member States of the EU, the Schengen area and the Frontex agency on a regular monthly and bi-monthly basis. When necessary, exchange occurs on an ad-hoc basis. The current developments in irregular migration and human smuggling at a European level are discussed at regular meetings, workshops and theme-specific conferences.

In addition to the activities mentioned above, the specialists of the Directorate of the Foreign Police Service regularly attend conferences and workshops as part of the activities coordinated by the Frontex agency. The objective of these conferences and workshops is to discuss the current issues related to implementation of modern technologies in the passenger checking process (ABC, e-gate).

4.3.2. Cooperation with Europol and Interpol

Cooperation with the European agency Europol and the international organisation Interpol takes place via the national headquarters and involves, in particular, verifying stay, authenticity of travel documents or public documents.

4.3.3. Cooperation with the International Organisation for Migration

In connection with the issues of irregular migration, the Czech Republic has been closely cooperating with the Prague office of the International Organisation for Migration. You can find more information on the specific form of this cooperation in Chapter 2, Section 2.2.2 concerning cooperation of governmental institutions with non-governmental organisations and the International Organisation for Migration in the implementation of policies and measures against irregular migration.

²⁴ RABIT stands for Rapid Border Intervention Team; FJST stands for Frontex Joint Support Team.

5. IMPACT OF EU POLICY AND LEGISLATION

The fifth chapter deals with the impact of the European Union policy and legislation on the national level; it briefly evaluates the changes that have taken place in the Czech Republic in connection with transposition of the Sanction and Return Directives; it examines the impact of the EU agreements on the CR's measures against irregular migration and also mentions the activities financed from the EU funds.

5.1. Impact of European Policy and Legislation Relating to Irregular Migration at a National Level

The policies implemented by the Czech Republic in the field of migration are significantly impacted by its membership in the European Union and the Schengen area. In many respects, the migration policies within the European Union are significantly harmonised through the European (Union) law. The abolition of checks on the internal borders of the Member States of the European Union significantly influences methods of protecting the territory of the Czech Republic also in relation to irregular migration and places higher demands on cooperation among the Member States of the European Union in the protection of their external borders.

The strategic European Union documents serving as a point of reference in the agenda of migration are, for one, the "**Stockholm Programme**", which presents a multi-year programme for the fields of justice and the interior for the period of the years 2010-2014,²⁵ and the **European Pact on Immigration and Asylum**.²⁶ The Lisbon Treaty, which became effective in late 2009, also had a significant influence on the development of the common policies of the European Union as well as on the reality of migration in the Czech Republic.²⁷

The entry of the CR into the Schengen area also had a major impact on the migration policies of the CR.²⁸ The Czech Republic had to eliminate the security risks accompanying irregular migration under new circumstances and by adopting new forms and methods of work, which allow for a fast and consistent response to the measures adopted by the Council of the EU on irregular migration. The fundamental strategic document of the CR in this field is the *National Plan for Management of the Protection of the State Borders of the CR and Correct Implementation of the Schengen Acquis* (National Schengen Plan 2011).

As for European Union legislation in the field of irregular migration applicable to the Czech Republic, you can find a detailed list of the EU legal regulations in Section 2.1.2 *Overview of the Legislation Relating to Irregular Migration*.

²⁵ Adopted by the EU Council in December 2009.

²⁶ Adopted in 2008 during the presidency of France.

²⁷ The Lisbon Treaty was signed on 13 December 2007 and became effective on 1 December 2009.

²⁸ By a decision of the EU Council 2007/801/EC of 6 December 2007, the process of accession of the Czech Republic to the Schengen security area was consummated and this document set that the accession would take place on 21 December 2007.

5.1.1. Evaluation of the Impact of the Transposition of the Sanction Directive (2009/52/EC) and the Return Directive (2008/115/EC) at a National Level

The Ministry of the Interior of the CR, as the authority responsible for implementation of the **Directive 2009/52/EC** of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (hereinafter referred to as the “**Sanction Directive**”), carried out transposition of the relevant provisions into Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic and on changes to some Acts, as amended by amendment no. 427/2010 Coll. with effect as of 1 January 2011. However, most provisions of the Sanction Directive fall within the terms of reference of the Ministry of Labour and Social Affairs and until this Ministry carries out the necessary legislative changes, the transposition of the Sanction Directive will not be complete. Moreover, the manner of the transposition by MoLSA is also related to other necessary changes, which will be carried out by the Ministry of Health, the Ministry of Finance and the Ministry of Industry and Trade. MoLSA drafted an amendment to the Employment Act and some other Acts but the legislative process has not yet been completed (the amendment was approved by the lower house of the CR Parliament on 9 November 2011). Thus, the CR has not yet implemented the Sanction Directive.

Based on the proposed changes to the relevant regulations, the following can be stated. If a fine for irregular employment of foreign nationals is imposed with finality on an employer with, it will be possible to impose various sanctions on the employer; for example, the employer will be required to pay the costs of administrative expulsion of the foreign national; for a period of time defined by the law, the employer will be unable to compete for public procurement contracts, will be unable to receive investment incentives, financial aid for creating jobs or for retraining employees.

Certain changes were also made in Act No. 326/1999 Coll. (see Act No. 427/2011 Coll.) with effect as of 1 January 2011 in connection with the **Directive 2008/115/EC** of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, which defines the course of action to be taken by the Member States when expelling and detaining foreign nationals. With respect to “sanctions”, the Directive has brought about the changes named below.

A decision referred to as “decision on the obligation to leave the territory” has been introduced into the legal system, which is a decision by which an obligation to leave the territory of the CR is imposed on a foreign national, and does not contain any “sanction” in the form of a ban on entry. It is a decision issued according to Article 6(2) of the Directive, i.e. in a situation when the foreign national has a permit for residence in some other member State.

The general concept of administrative expulsion has remained preserved, i.e. except for the aforementioned cases, the police decides on the penalty for a foreign national for illegal stay and for other violations of the Act on the Residence of Foreign Nationals in the form of a decision on administrative expulsion, which newly applies for the entire territory of the EU and always contains a ban on entry. It is referred to as a decision on return combined with a

ban on entry as envisioned by the Return Directive. As a result of the Directive, the actus reus of breaches of obligations has also been modified in order to correspond to the Directive with respect to the duration of the ban on entry.

As for detention, alternatives to detention have been presented, which are less invasive measures that can be imposed on a foreign national without detaining him/her. The Czech Republic has chosen the option of depositing a financial guarantee (bail) and an obligation to report one's whereabouts. Another important new aspect was restriction of the possibility of detaining unaccompanied minor foreign nationals and restructuring the grounds for detention so that they are in accordance with the Directive. From a procedural point of view, the rules of judicial review have been newly laid down, namely in that a court must decide on a legal action against a decision on detention within 7 working days from the delivery of the case file.

5.1.2. Impact of EU Agreements on the Measures by the CR against Irregular Migration

The readmission agreements in themselves do not constitute new standards concerning the movement of foreign nationals inside the territory of a Member State; they are technical agreements, which are applied after proceedings concerning a person with irregular status in the territory of a Member State have been completed in the territory of that Member State. Readmission agreements address the matter of a speedy return of such person to his/her country of origin, that is, to the signatory state from which the person had arrived. Although the main objective of readmission agreements is to speed up the hand-over (by setting time limits from the actual verification of the identity of a person until the physical hand-over of such person, by defining the evidence in such way that it is not necessary to wait for the opinion statement of the requested country), due to other European Union legislation (particularly the Return Directive), the stay of the persons concerned in the territory of the CR is often prolonged because these persons use every option to postpone the enforceability of the decision on their expulsion (an appeal, legal remedies). Paradoxically, fewer persons are expelled now, than before the Return Directive became effective.

5.1.3. Activities Financed by the Fund for External Borders and the European Return Fund

Activities aimed at providing better technical equipment for the border check worksites on the external borders have been financed through the Fund for External Borders. As for the European Return Fund, namely the activities of non-profit non-governmental organisations are financed from this instrument, including, since 2012, the activities of the International Organisation for Migration focused on advisory services and services associated with assistance to third country nationals with an irregular status towards their presumed return to their country of origin. In this respect, projects with a focus on return advice, financial incentives for returns and reintegration are financed in this way.

6. STATISTICAL DATA ON THE IRREGULAR MIGRANT POPULATION

In an annex to this report, you can find statistical data relating to irregular migration. The reference period for collection of the statistical data is the years 2005 – 2010. The data was extracted from the Eurostat database; there are also other statistical data presented, which are being gathered at the national level.

6.1. National Statistical Data (Eurostat) Relating to Irregular Migration

The statistical data for this section has been extracted from the Eurostat database and filtered in such way so that it only contains data on third country nationals.²⁹ For the Czech Republic, Eurostat data is available starting from the year 2008. The data analysed includes data on the number of detained third country nationals whose stay in the territory of the CR was irregular; data on the number of third country nationals who were refused entry into the territory of the CR on the external borders; data on the number of third country nationals for whom a time limit for leaving the territory of the CR was set in a decision on administrative/judicial expulsion. The available data also includes data on the number of persons returned to their countries of origin, on the number of refused applications for asylum and on the number of third country nationals whose status of international protection was withdrawn.

As for the category of the **number of detained third country nationals, whose stay in the territory of the CR was irregular**, the number of detained persons over the given period did not exceed 4,000 persons per year. In 2010, a total of 2,655 persons were detained, which is 1,300 persons less than the previous year (a 33 % decrease). In 2008, 3,335 persons were detained.

With respect to citizenships, the largest group of persons exposed as irregular migrants consisted of the citizens of Ukraine, followed by the citizens of Vietnam; the third position was alternately taken by the citizens of the Russian Federation and Mongolia. The list of top 10 citizenships also included citizens of Armenia, Moldova, Byelorussia and China.

Of the total 9,945 foreign nationals who were detained in the territory of the Czech Republic in connection with irregular migration during the years 2008-2010, 72 % were men and 28 % were women.

As for **the number of third country nationals who were refused entry into the territory of the CR on the external borders**, this did not exceed 400 persons per year. In 2010, it was 330 persons; in 2009, it was a slightly higher number of 380 persons, while in 2008, the number lower at 255 persons.

²⁹ The data are prepared in accordance with the EC Regulation No. 862/2007, see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:199:0023:0029:EN:PDF>. Particularly Articles 5(1)-a, 5(1)-b, 7(1)-a and 7(1)-b.

If we take a look at citizenship in this category, Russian citizens hold first place for all the monitored years. The list of top 10 countries/citizenships includes Ukraine, Egypt, Turkey and Armenia every year.

The most frequent reasons for denying entry are linked to invalid visa/residence permit or the fact that satisfactory reasons were not given for the purpose of the stay.

The **numbers of persons in the category of third country nationals for whom a time limit for leaving the territory of the CR was set by a decision on administrative/judicial expulsion** are in the region of a figure not exceeding 4,000 persons per year since 2008. In 2008, it was 3,770 persons; in 2009, it was 3,805 persons; in 2010, a time limit for leaving the country was set in a decision on administrative/judicial expulsion for a total of 2,915 persons.

The largest group of foreign nationals who were issued with the aforementioned decision was made up of the citizens of Ukraine during all the monitored years (44 % of the total number of foreign nationals). They were followed by the citizens of Vietnam (12 % of the total number of foreign nationals); the third place was being alternately taken by the citizens of Mongolia and the Russian Federation. The list of top 10 citizenships also included the citizens of Moldova, China and Georgia every year.

The numbers of third country nationals returned to their countries of origin hovered between 600 and approximately 900 persons per year during the reference period. In 100 % of the cases, this concerned the return of a third country national to a third country. As for the nationality structure, the returns mostly concern the citizens of Ukraine (48 % of the total number of foreign nationals), followed by citizens of Vietnam (19 %), citizens of Mongolia (10 %) and citizens of Moldova and Russia.

If we take a look at the data on **rejected applications for international protection** (in the form of asylum or subsidiary protection), we can see a marked decrease as compared with the year 2008 when 1,180 applications were rejected at the first instance level (a decision made by the MoICR) and 1,435 applications were rejected by a judicial decision (the final decision on the application). In 2009, it was decided to refuse to grant international protection in 435 cases at the first instance level (a 63% decrease) and in 395 cases by a judicial decision (a 72% decrease). For the year 2010, only data on the decisions made at the first instance level is available; at this level, 335 applications were rejected.

The last monitored category is **the number of third country nationals whose status of international protection was withdrawn**. During the years 2008-2010, the status of international protection was not withdrawn from any third country nationals in the Czech Republic.

6.2. Other National Statistical Data on Irregular Migration

As for other statistical data gathered at the national level with regard to monitor irregular migration, we tried to map the availability of data for the following categories: the number of irregular migrants in the Czech Republic; the flow of irregular migrants into the CR and

other data which can at least indirectly indicate the level of irregular migration in the CR – data on re-entry bans; data on penalised transport companies/carriers within the meaning of Article 4 of the Transport Directive; marriages of convenience; the costs associated with the system and application of measures against irregular migration and the statistical data on employment and irregular working activities of migrants.

Reliable statistical data on **the number of irregular migrants** in the CR and statistical **data on the flow of irregular migration** into the CR is very difficult to obtain. As for statistical data at least indirectly denoting the numbers of irregular migrants in the CR, the Directorate of the Foreign Police Service provided data on decisions issued on administrative and judicial expulsions referring to a request for the data on **re-entry bans**. This data supplements statistical data from Eurostat in the category of the number of third country nationals for whom a time limit for leaving the territory of the CR was set in a decision on administrative/judicial expulsion, namely for the years 2005-2007, for which no Eurostat data is available. However, it needs to be taken into account that the aforementioned data from the DFPS includes all foreign nationals in the territory of the CR, which means that the total number of expelled persons is increased by the citizens of the EU/EEA Member States.

In addition, **data on sanctioned transport companies/carriers according to Article 4 of the API Directive** is recorded; specifically, this data contains the number of administrative offences of carriers according to Section 93(1) of Act No. 49/1997 Coll.³⁰ The total number of administrative offences of carriers is also divided into sub-categories, specifically, according to Subsection c), into a sub-category of carriers who have provided incomplete or incorrect information, as defined in Section 68(3) of the aforementioned Act; or, according to Subsection h), into a sub-category of carriers who failed to provide information in accordance with Section 68(3) of the same Act. The data on sanctioned transport companies has been collected by the DFPS since the second half of 2008 and the source of this data is the Monthly Reports of Foreign Police Inspectorates at international airports.

As for specific cases where transport companies/carriers are sanctioned for failure to provide data or for submission of data which is not quite complete or truthful, the number is always a maximum of 40 cases per year.

Data on what is referred to as “**marriages of convenience**” could be significantly indicative of the number of irregular migrants in the CR. For example, it could be the number of rejected applications for a residence permit on the grounds of suspicion of marriage of convenience or withdrawal of a residence permit for the same reason. Unfortunately, data on these categories is not available from the information systems. Data on the number of persons prosecuted for crimes associated with irregular migration are recorded; specifically, these crimes involve aiding and abetting irregular migration through a marriage of convenience or making a false declaration of paternity. However, it is questionable to what extent this data indicates the actual scope of the problem/scope of misuse of residence permits and,

³⁰ Act No. 49/1997 Coll. on Civil Aviation and on a change and amendment to the Trade Licensing Act.

indirectly, the scope of irregular migration because it is very difficult to prove the insincerity of such actions.

Similarly, it is very difficult to quantify **the costs associated with the system and implementation of measures to address irregular migration**. The DFPS records the costs of forced returns or expulsions/removals and the costs incurred by the police when carrying them out, with such costs being recorded as a separate category. Since 2009, these costs have been partly co-financed through European projects. In 2010, the total costs of carrying out forced returns amounted to CZK 14,854,570, CZK 4,264,190 of which was paid from European funds (29 % of the total amount). In 2009, the costs of carrying out expulsions/removals were the highest of the monitored period of 2005-2010, amounting to CZK 17,085,595, 10 % of which was paid from the European funds.

Statistical data on **employment and irregular working activities of migrants** can indicate a lot about the irregular migration in the Czech Republic. Data is collected on the results of the monitoring carried out by the state employment agencies in the field of employment of foreign nationals. The monitoring of employment of foreign nationals is focused on performance/facilitation of performance of irregular work and undocumented (unreported) work performed by third country nationals and EU/EEA citizens.³¹ A third country national can be guilty of performing irregular work not only when he/she does not have a valid residence permit but also when he/she has one, but performs work without a valid employment permit/green card/blue card or in conflict with these documents (i.e. if he/she performs some other type of work than that permitted, in a different place or for a different legal entity or natural person). Undocumented (unreported) work constitutes violation of Section 87 of Act No. 435/2004 Coll. on Employment where the employer fails to submit written information on employment of EU/EEA and Swiss citizens or their family members or foreign nationals who do not need an employment permit with the state employment agency. The statistical data is collected by the Ministry of Labour and Social Affairs, specifically by the Department for Labour Market Concepts.³²

Besides the branch office of the State Employment Agency, irregular employment is also monitored by customs office.³³ The General Customs Directorate prepares its own statistics on the monitoring activities carried out; yet, this data are not included in the report referring to the fact that the comparison with the MoLSA's data might be problematic. With regard to the fact that customs offices supply the resulting monitoring reports to the regional branch offices of the State Employment Agency (formerly referred to as state employment agencies), which conduct administrative proceedings and impose fines, the results of the

³¹ The statistical data on employment and irregular work activities of migrants analysed below include the data on all foreign nationals in the territory of the CR, that is, they are not exclusively about third country nationals.

³² In this context, MoLSA uses terminology, which is somewhat different from the terminology used in the study. It speaks about performance of "illegal" rather than "irregular" work. This is also reflected in the monitored category of "illegally employed foreign nationals or illegally employed foreign workers" who are required to obtain an employment permit; in the study, the equivalent "irregularly employed foreign nationals" has been preferred for this category. As for the overview of statistical data in the annex to the study, the data stated in the annex correspond to the terminology used by MoLSA.

³³ Inspections are often carried out within cooperation of both of these governmental institutions.

work of customs offices are also reflected in MoLSA's statistics, specifically in the following categories: the numbers of foreign nationals employed irregularly and on an undocumented basis; the number of employers who perpetrated an administrative infraction/offence; the number of cases where a foreign national performed irregular work; the number of cases where work was performed without being reported to the Governmental Employment Agency, and the number of imposed fines. The statistical data of the General Customs Directorate would somewhat increase the figures in the categories concerning the number of inspections on employer's sites and the total number of checked foreign nationals.

According to MoLSA's data, a total of 101,003 foreign workers were checked in the years 2005-2010, among whom 30,517 cases (30 %) of performance of irregular or undocumented (unreported) work were identified.³⁴

In 2010, among the total of 14,186 foreign workers checked, there were 6,232 (44 %) cases of irregular or undocumented work identified, including 1,797 cases of performance of irregular work by a foreign national and 4,435 cases of work unreported to the State Employment Agency. If we take a look at the citizenship of the persons who were performing work on an irregular basis in the CR in 2010 most often, we can see that the citizens of Ukraine account for 58 % of them, followed by the citizens of Vietnam (19 %) and Mongolia (12 %). These percentages of citizenships can be generally applied to the whole period of the years 2005-2010: the citizens of Ukraine always accounted for more than a half of all irregularly employed foreign nationals, the second place was held by the citizens of Vietnam and, in the list of top 10 countries, Romania and Moldova also appear in the third place, alongside Mongolia.

The highest number of cases of performance of irregular or undocumented work was recorded in 2009 when the total reached 8,086. This included 3,170 cases of performance of irregular work and 4,916 cases of performance of undocumented work.

Data is also available on the numbers of fines imposed on employers and employees as a result of performance of irregular or undocumented work including data on the sizes of such fines.

³⁴ As for the number of cases of performance of irregular work and undocumented (unreported) work by third country nationals and EU/EEA citizens, these cases were monitored in the same category for the year 2005; in the following years, the cases of irregular work and undocumented work have been monitored separately.

7. CONCLUSIONS

The focus of this study is the topic of irregular migration in the Czech Republic and its purpose is to provide an overview of the practical measures being applied in the Czech Republic to address irregular migration. These includes specifically the pre-entry measures applied before a foreign national enters the country, measures applied at the time of entry into the country and measures aimed at exposing irregular migrants on the borders; measures applied during a stay in the country and measures, which offer irregular migrants the possibility of “stepping out of irregular status”, for instance, by participating in the programme of assisted voluntary returns. The measures mentioned in the study are practices which have proven to be most effective in the Czech Republic and which are used here at present. However, it is very difficult to evaluate the significance and impact of a specific measure as these are often combined and applied simultaneously.

During the period before entry into the country, several measures/practices targeted at preventing irregular migration or helping to uncover such migration are applied. These are preventive measures aimed at improving foreign nationals’ awareness of the possible risks associated with irregular migration (for example, a project implemented in Mongolia and the CR oriented towards Mongolian labour migrants), verification in connection with visas issuance, use of the mechanism of what is referred to as prior consultation or information on the issued visas. Since October 2011, the Visa Information System (VIS), a joint electronic database system of Schengen countries containing data on third country nationals applying for a Schengen visa, has been in use. Sending liaison officers for migration and documents to embassies of the Czech Republic abroad also helps reduce irregular migration.

With regard to the moment of entry into the country, the Czech Republic has found several measures to provide the best results. Before arrival to the country, information referred to as API data is used, that is, lists of passengers which are requested from air carriers for pre-selected flights are used. With flights rated as risk flights with respect to internal security and irregular migration, checks at the exit from the plane are also applied (gate checks). Patrols are also organised and random checks on whether the stay of a person in the transit area of an international airport is authorised are also carried out. Persons crossing the external border undergo a border check. On the internal land border, the concept of joint patrols with the information and coordination support of joint information centres is used.

As for measures aimed at checking irregular migration inside the country, checks referred to as “residence checks” are often used in the CR. Residence checks are carried out in various forms and their main purpose is to verify whether the foreign national complies with the declared purpose of his/her stay. Whether a foreign national complies with the declared purpose of his/her stay is also verified during proceedings for prolongation of his/her stay in the country. Checks inside the country are also carried out in the form of a check of the transiting road and railway transport.

Foreign nationals are offered the option of “stepping out of irregular status” through several measures. These are namely assisted voluntary returns programmes but there are also other options. If, for example, a foreign national is prevented from leaving the territory of the Czech Republic by an obstacle beyond his/her control or his/her departure is not possible,

he/she can be granted a visa for a stay of over 90 days permitting for exceptional leave to remain in the country. If the obstacle preventing his/her departure still exists even after a stay longer than 1 year, it is possible to grant a long-term residence permit permitting for exceptional leave to remain in the country. Also, even if it has been determined in the proceedings for granting international protection that the foreign national is not eligible for asylum, he/she can be granted subsidiary protection.

International cooperation between the Czech Republic and other EU Member States, third countries, EU agencies and international organisations is very important for prevention of irregular migration, detection of irregular migration as well as for setting up effective and well-targeted measures. This cooperation takes on various forms ranging from practical cooperation, through exchange of information and best practices, to international cooperation in terms of political dialogue.

The Czech Republic's membership of the European Union and its participation in the Schengen area has an important influence on the policies of the Czech Republic. In many respects, migration policies are harmonised by the European Union legislation within the European Union. Cancellation of checks on the internal borders of the European Union Member States significantly influences the way of protecting the territory of the Czech Republic in relation to irregular migration. Moreover, in connection with accession to the Schengen area, much of the statistical data has been prepared according to a new methodology since 2008 making comparison with the data from previous years problematic.

According to the data from Eurostat, the number of detained third country nationals whose residence in the territory of the CR was irregular did not exceed 4,000 persons per year in the years 2008-2010. In 2010, a total of 2,655 persons were detained, which was 1,300 persons less than in the preceding year (a 33% decrease). In 2008, 3,335 persons were detained. For the three previous years, the figures are considerably higher; however, the statistical data from the Directorate of the Foreign Police Service, which we have at our disposal for these years, includes not only data on third country nationals but also data on EU/EEA citizens. As a result, comparability of the data is more problematic. In the years 2005-2007, according to the data from the DFPS, the highest number of persons identified in connection with irregular stay was in 2005; it was a total of 9,800 persons. From then on, there was an observable downward trend; 7,117 persons with irregular stay were identified in 2006 and 4,712 persons in 2007.

In the years 2008-2010, with respect to citizenships, the largest group of persons identified as irregular migrants were citizens of Ukraine, followed by citizens of Vietnam; the third place was taken alternately by citizens of the Russian Federation and Mongolia. The list of top 10 citizenships also included citizens of Armenia, Moldova, Byelorussia and China every year. In the years 2005-2007, these trends were not much different according to the DFPS data; citizens of Ukraine left the others far behind them in the top 10 list, followed by citizen of Vietnam or the Russian Federation. The list of top 10 citizenships included citizens of China, Moldova, Byelorussia and Mongolia.

Besides the fact that citizens of Ukraine and Vietnam form the largest groups of persons identified in connection with an irregular stay in the territory of the CR, they also fall into the

category of the most frequently identified irregularly employed foreign nationals in the CR. As follows from the information of the Ministry of Labour and Social Affairs, among the total of 12,743 foreign nationals who were exposed in the checks carried out by state employment agencies as performing irregular work in the years 2005-2010, citizens of Ukraine accounted for 58 % and citizens of Vietnam accounted for 21 %.

These percentages are also reflected in other monitored categories such as the numbers of third country nationals for whom a time limit for leaving the territory of the CR was set in a decision on administrative or judicial expulsion. Over the period in question³⁵, the largest group of foreign nationals for whom such decision was issued were once again citizens of Ukraine (44 % of the total number of foreign nationals), followed by citizens of Vietnam (12 % of the total number of foreign nationals). As for returns to the country of origin, the largest groups once again consist of citizens of Ukraine (48 % of the total number of foreign nationals), citizens of Vietnam (19 %) and citizens of Mongolia (10 %).

There are potential security risks associated with irregular migration, the Czech Republic, therefore, pays the issue an appropriate attention. Yet, apart from irregular migration, the CR is increasingly facing also challenges associated with misuse of regular migration. As a result, the fields of irregular migration and regular migration have been significantly merging. Instead of the traditional model of irregular migration and unauthorised stay in the country, a regular method of obtaining entry into the country/obtaining a residence permit is used; however, subsequently the purpose of stay is not complied with, or else immigration legislation and other legal provisions are circumvented and misused in some other way. This in particular includes misuse of family reunification for obtaining a residence by entering a marriage of convenience or by making a false declaration of paternity; residence permits for business and studies are also often misused as well as temporary residence status of EU citizens.

³⁵ In the years 2008-2010.

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LIST OF ANNEXES

- Data on the detained third country nationals whose stay in the territory of the CR was irregular;
- The numbers of third country nationals who were refused an entry into the territory of the CR on the external border;
- The numbers of third country nationals for whom a time limit for leaving the territory of the CR was set in a decision on administrative/judicial expulsion;
- Data on the number of persons from third countries returned to their countries of origin;
- The data on the rejected applications of persons from third countries for asylum;
- Third country nationals from whom the international protection status was withdrawn;
- The number of persons for whom a decision on administrative and judicial expulsion from the territory of the Czech Republic was issued;
- Administrative infractions of carriers according to Section 93(1) of Act No. 49/1997 Coll., that is, the sanctioned transport companies/carriers;
- Costs of forced returns carried out by the Foreign Police Service in the years 2005-2010;
- The results of the checking activities of the governmental employment agencies in the years 2005-2010 in the field of illegal and undocumented employment of foreign nationals;
- The numbers of foreign workers employed illegally and on an undocumented basis in the years 2005-2010, disaggregated by their citizenships;
- An overview of the total amount of fines and the average amount of fines for illegal and undocumented employment, imposed in the years 2005-2010;
- An overview of the total numbers of fines imposed on employers and employees in the years 2005-2010.

Table 1: Third country nationals found to be illegally present

Table 1.1: Overall trend

	2005	2006	2007	2008	2009	2010
Total number of third-country nationals found to be illegally present				3 335	3 955	2 655

Source: Eurostat data

Table 1.2: Age of migrant found to be illegally present

	2005	2006	2007	2008	2009	2010
Fewer than 14 years				45	110	115
From 14 to 17 years				30	40	20
From 18 to 34 years				1710	2110	1295
35 years or over				1545	1695	1225

Source: Eurostat data

Table 1.3: Sex of migrant found to be illegally present

	2005	2006	2007	2008	2009	2010
Male				2355	2 890	1 955
Female				980	1 065	700

Source: Eurostat data

Table 1.4: Main 10 countries of citizenship

Position of the country of citizenship	2008		2009		2010	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Ukraine	1 545	Ukraine	1 500	Ukraine	955
2nd main	Vietnam	315	Vietnam	390	Vietnam	310
3rd main	Mongolia	270	Russia	375	Russia	260
4th main	Russia	190	Mongolia	255	Mongolia	140
5th main	Armenia	100	Georgia	165	Moldova	95
6th main	Moldova	95	Moldova	140	China (includi	70
7th main	Georgia	95	Uzbekistan	90	Armenia	60
8th main	Belarus	85	China (includi	85	Belarus	60
9th main	China (includi	80	Armenia	80	Nigeria	60
10th main	Serbia	50	Belarus	80	Turkey	45

Source: Eurostat data

Table 2: Third country nationals refused entry at the external borders

Table 2.1: Overall trend

	2005	2006	2007	2008	2009	2010
Total number of third-country nationals refused entry				255	380	330

Source: Eurostat data

Table 2.2: Grounds for refusal

	2005	2006	2007	2008	2009	2010
No valid travel document				10	5	10
False/counterfeit/forged travel document				5	10	0
No valid visa or residence permit				185	235	185
False visa or residence permit				10	10	5
Purpose and conditions of stay not justified				15	75	85
Person already stayed 3 months in a 6-months period				0	0	0
No sufficient means of subsistence				10	15	5
An alert has been issued				25	25	35
Person considered to be a public threat				0	0	0

Source: Eurostat data

Table 2.3: Type of border where refused entry

	2005	2006	2007	2008	2009	2010
Land						
Sea						
Air				255	380	330

TOTAL

Source: Eurostat data

Table 2.4: Main 10 countries of citizenship of third-country nationals refused entry

Position of the country of citizenship	2008		2009		2010	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Russia	70	Russia	85	Russia	55
2nd main	Ukraine	30	Armenia	45	Unknown	30
3rd main	Turkey	20	Ukraine	40	Turkey	30
4th main	Egypt	20	Unknown	20	Former Yugos	25
5th main	Armenia	10	Turkey	15	Armenia	20
6th main	Unknown	10	India	15	Ukraine	20
7th main	Croatia	5	Egypt	10	Syria	15
8th main	Former Yugos	5	Former Yugos	10	Egypt	10
9th main	Belarus	5	Belarus	10	Iraq	10
10th main	Moldova	5	Nigeria	10	China (includi	10

Source: Eurostat data

Table 3: Third country nationals ordered to leave (after being found illegally present)

Table 3.1: Overall trend

	2005	2006	2007	2008	2009	2010
Total number of third-country nationals ordered to leave (after being found to be illegally present)				3 770	3 805	2 915

Source: Eurostat data

Table 3.2: Main 10 countries of citizenship of third-country national ordered to leave

Position of the country of citizenship	2008		2009		2010	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Ukraine	1 835	Ukraine	1 575	Ukraine	1 210
2nd main	Vietnam	350	Vietnam	495	Vietnam	400
3rd main	Mongolia	235	Mongolia	275	Russia	170
4th main	Russia	180	Russia	215	Mongolia	160
5th main	Moldova	145	Georgia	170	Moldova	130
6th main	Belarus	120	Moldova	140	China (including Hong Kong)	85
7th main	China (including Hong Kong)	120	China (including Hong Kong)	80	Belarus	65
8th main	Georgia	110	Uzbekistan	65	Nigeria	55
9th main	Armenia	80	Armenia	60	Kyrgyzstan	55
10th main	Former Yugoslav Republic of Macedonia	55	Nigeria	60	Georgia	50

Source: Eurostat data

**Table 4: Third country nationals returned following an order to leave
(after being found to be illegally present)**

Table 4.1: Overall trend

	2005	2006	2007	2008	2009	2010
Total number of third-country nationals returned following an order to leave				585	850	920
Number of third-country nationals returned <i>to a third country</i> following an order to leave				585	850	920

Source: Eurostat data

Table 4.2: Main 10 countries of citizenship of person returned

Position of the country of citizenship	2008		2009		2010	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Ukraine	295	Ukraine	415	Ukraine	430
2nd main	Vietnam	100	Vietnam	170	Vietnam	170
3rd main	Mongolia	45	Mongolia	85	Mongolia	110
4th main	Moldova	25	Moldova	55	Moldova	55
5th main	Russia	20	Russia	35	Russia	25
6th main	Belarus	15	Belarus	15	Belarus	15
7th main	China (includi	15	Georgia	15	Kyrgyzstan	15
8th main	Former Yugos	10	China (includi	10	Georgia	10
9th main	Turkey	10	Turkey	10	China (includi	10
10th main	Serbia	5	Former Yugos	5	Turkey	10

Source: Eurostat data

Table 5: Third country nationals whose application for asylum has been rejected

Table 5.1: Overall trend

		2005	2006	2007	2008	2009	2010
Total number of third country nationals whose application for asylum has been rejected ...	in the first instance				1 180	435	335
	following a final decision				1 435	395	data not available

Source: Eurostat data

Table 5.2: Sex of migrant whose application for asylum has been rejected ...

		2005	2006	2007	2008	2009	2010
Applications rejected in the first instance	Male				840	295	225
	Female				345	140	110
	Unknown				0	0	0
Applications rejected following a final decision	Male				1 020	280	
	Female				415	115	
	Unknown				0	0	

Source: Eurostat data

Table 5.3a: Main 10 countries of citizenship of applicants whose application has been rejected in the first instance

Position of the country of citizenship	2008		2009		2010	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Turkey	280	Mongolia	95	Ukraine	60
2nd main	Ukraine	165	Ukraine	70	Mongolia	45
3rd main	Mongolia	120	Belarus	45	Syria	25
4th main	Belarus	85	Syria	25	Nigeria	25
5th main	Kazakhstan	65	Vietnam	20	Democratic Re	25
6th main	Vietnam	60	Kosovo (under	15	Belarus	20
7th main	Russia	55	Russia	15	Vietnam	20
8th main	Nigeria	40	Georgia	15	Russia	15
9th main	Afghanistan	30	Stateless	15	Stateless	15
10th main	Serbia	25	Turkey	10	Kosovo (under	10

Source: Eurostat data

Table 5.3b: Main 10 countries of citizenship of applicants whose application has been rejected following a final decision

Position of the country of citizenship	2008		2009		2010	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main	Ukraine	340	Kazakhstan	85		
2nd main	Turkey	225	Ukraine	65		
3rd main	Mongolia	125	Mongolia	40		
4th main	Kazakhstan	95	Turkey	30		
5th main	Vietnam	95	Vietnam	20		
6th main	Russia	80	Belarus	20		
7th main	Kyrgyzstan	55	Stateless	20		
8th main	Belarus	45	Russia	15		
9th main	China (includi	45	Georgia	15		
10th main	Nigeria	35	Kosovo (under	10		

Source: Eurostat data

Table 6: Third country nationals whose status has been withdrawn (following a final decision)

Table 6.1: Overall trend

	2005	2006	2007	2008	2009	2010
Total number of third country nationals whose status has been withdrawn				0	0	0

Source: Eurostat data

Table 6.2: Main 10 countries of citizenship of migrant whose status has been withdrawn

	2005		2006		2007	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main						
2nd main						
3rd main						
4th main						
5th main						
6th main						
7th main						
8th main						
9th main						
10th main						

	2008		2009		2010	
	Name of the country of citizenship	Total	Name of the country of citizenship	Total	Name of the country of citizenship	Total
1st main						
2nd main						
3rd main						
4th main						
5th main						
6th main						
7th main						
8th main						
9th main						
10th main						

Source:

**Number of persons issued with a decision on administrative and judicial expulsion
from the territory of the Czech Republic**

Year	2005	2006	2007	2008	2009	2010
total number of foreign nationals issued with such a decision	12 346	8 911	6 238	4 438	4 528	3 566
of which						
administrative expulsion	10 094	6 960	4 629	2 909	3 064	2 507
judicial expulsion	2 252	1 951	1 609	1 529	1 464	1 059

Source: FNIS DFPS

**Administrative offences by transport companies under Section 93(1) of Act No. 49/1997
Coll., or sanctioned transport companies/carriers**

period	Number of administrative offences	of which	
		subsection c)	subsection h)
1.7. - 31.12.2008	28	1	27
year 2009	40	6	34
year 2010	28	10	18

Source: FPI IA Monthly statements

**Costs of implementing forced repatriations by FPS
between 2005 and 2011**

Year	From allocated budget	As part of European project	Total
2005	13 155 634		13 155 634
2006	12 429 604		12 429 604
2007	10 856 065		10 856 065
2008	9 231 093		9 231 093
2009	15 327 456	1 758 139	17 085 595
2010	10 590 380	4 264 190	14 854 570

Source: DFPS

Results of inspections conducted by the state employment agencies from 2005 to 2010 in the area of illegal and undocumented*) employment of foreign nationals

Period	Number of inspection visits to employers of foreign national employees	Number of employers committing administrative offences	Number of foreign national employees inspected	Number of cases of illegal employment by a foreign national	Number of cases where employment was not reported to state employment agency
			<i>of which women</i>	<i>of which women</i>	<i>of which women</i>
2005	1 631	469	9 534	2 071	
			<i>not specified</i>	<i>not specified</i>	
2006	1 474	539	12 094	1 701	2 087
			4 069	543	<i>not specified</i>
2007	1 484	471	21 897	1 662	2 163
			8 458	599	<i>not specified</i>
2008	1 933	537	24 203	2 343	4 173
			8 332	575	<i>not specified</i>
2009	1 898	401	19 089	3 170	4 916
			6 322	1 030	<i>not specified</i>
2010	2 333	484	14 186	1 797	4 435
			4 961	517	<i>not specified</i>

*) Breach of Section 87 of Act No. 435/2004 Coll., on employment - employer failed to submit written information on employment of EU/EHP and Swiss citizens or their family members or else foreign nationals who do not need a work permit.

Numbers of illegally employed foreign nationals, or undocumented*), according to citizenship as at 31. 12. 2005

State of Citizenship	
Belarus	6
Bulgaria	98
China	27
Croatia	1
Georgia	1
India	8
Kazakhstan	5
<i>Lithuania</i>	6
Macedonia	13
Moldova	86
Mongolia	4
Nepal	1
<i>Poland</i>	3
Romania	54
Russia	35
<i>Slovakia</i>	123
Taiwan	36
Turkey	2
Ukraine	1452
USA	1
Vietnam	109
Total	2071

*) Breach of Section 87 of Act No. 435/2004 Coll., on employment - employer failed to submit written information on employment of EU/EHP and Swiss citizens or their family members or else foreign nationals who do not need a work permit.

Numbers of illegally employed foreign nationals, or undocumented, according to citizenship as at 31. 12. 2006

State of Citizenship	Numbers of illegally employed foreign nationals	Numbers of employed foreign national employees, undocumented	Total
Angola	0	1	1
Armenia	2	0	2
Belarus	21	1	22
Brazil	0	1	1
Bulgaria	58	5	63
China	52	7	59
Croatia	1	0	1
Cuba	1	0	1
<i>Germany</i>	0	20	20
<i>Greece</i>	0	1	1
Guyana	1	0	1
<i>Italy</i>	0	2	2
Iran	1	0	1
Kazakhstan	2	1	3
Korea	0	14	14
<i>Lithuania</i>	0	7	7
Macedonia	8	0	8
Moldova	60	1	61
Mongolia	7	0	7
Peru	1	0	1
<i>Poland</i>	0	88	88
Romania	117	6	123
Russia	3	1	4
<i>Slovakia</i>	0	1836	1836
Sri Lanka	0	1	1
<i>Switzerland</i>	0	1	1
Turkey	2	0	2
Turkmenistan	0	1	1
Ukraine	1207	73	1280
Uzbekistan	6	0	6
<i>United Kingdom</i>	0	1	1
USA	21	1	22
Vietnam	130	17	147
Total	1 701	2 087	3788

Numbers of illegally employed foreign nationals, or undocumented, according to citizenship as at 31. 12. 2007

State of Citizenship	Numbers of illegally employed foreign nationals	Numbers of employed foreign national employees, undocumented	Total
Armenia	9	0	9
<i>Austria</i>	-	1	1
<i>Belgium</i>	-	4	4
Belarus	10	4	14
<i>Bulgaria</i>	-	105	105
Canada	1	1	2
China	34	6	40
Ecuador	0	1	1
Egypt	1	0	1
<i>France</i>	-	1	1
Georgia	0	1	1
<i>Germany</i>	-	15	15
<i>Greece</i>	-	2	2
<i>Hungary</i>	-	1	1
<i>Italy</i>	-	1	1
Iraq	0	2	2
Kyrgyzstan	4	0	4
<i>Lithuania</i>	-	7	7
Macedonia	1	0	1
Moldova	104	1	105
Mongolia	19	0	19
Nigeria	1	0	1
<i>Poland</i>	-	380	380
<i>Romania</i>	-	77	77
Russia	6	10	16
Serbia	1	2	3
<i>Slovakia</i>	-	1 418	1 418
<i>Spain</i>	-	1	1
Tunisia	0	1	1
Turkey	1	1	2
Ukraine	1 226	66	1 292
Uzbekistan	2	0	2
Vietnam	242	54	296
Total	1 662	2 163	3 825

Numbers of illegally employed foreign nationals, or undocumented, according to citizenship as at 31. 12. 2008

State of Citizenship	Illegally employed foreign nationals – nationals subject to work permit requirement	Undocumented emolymment of foreign nationals	Total
Afghanistan	0	2	2
Algeria	1	1	2
Angola	0	2	2
Armenia	4	1	5
<i>Austria</i>	0	12	12
<i>Belgium</i>	0	2	2
Belarus	6	1	7
Bosnia and Herzegovina	1	0	1
<i>Bulgaria</i>	0	434	434
Canada	0	3	3
China	47	3	50
Columbia	1	0	1
Congo	1	0	1
Croatia	0	18	18
Cuba	3	0	3
Denmark	0	4	4
Egypt	1	0	1
<i>France</i>	0	2	2
<i>Germany</i>	0	4	4
<i>Hungary</i>	0	2	2
India	2	0	2
Ireland	0	1	1
Israel	2	1	3
<i>Italy</i>	0	1	1
Japan	1	0	1
Kazakhstan	2	3	5
Korea	4	0	4
Kuwait	0	1	1
Kyrgyzstan	5	0	5
Lebanon	0	5	5
<i>Lithuania</i>	0	17	17
Macedonia	4	0	4
Moldova	98	2	100
Mongolia	143	6	149
Morocco	0	1	1
<i>Netherlands</i>	0	1	1
Pakistan	5	0	5
<i>Poland</i>	0	707	707
<i>Portugal</i>	0	1	1
Qatar	0	1	1
<i>Romania</i>	0	321	321
Russia	13	14	27
Serbia	2	1	3

<i>Slovakia</i>	0	2 056	2 056
<i>Slovenia</i>	0	1	1
<i>Spain</i>	0	7	7
Syria	0	3	3
Turkey	4	3	7
Ukraine	1 109	193	1 302
Uzbekistan	33	0	33
Vietnam	850	333	1 183
Yemen	0	2	2
Total	2 342	4 173	6 515

Numbers of illegally employed foreign nationals, or undocumented, according to citizenship as at 31. 12. 2009

State of Citizenship	Illegally employed foreign nationals – nationals subject to work permit requirement	Undocumented emolymment of foreign nationals	Total
Algeria	0	1	1
Armenia	4	13	17
<i>Austria</i>	0	1	1
Bangladesh	6	0	6
<i>Belgium</i>	0	1	1
Belarus	21	7	28
Bosnia and Herzegovina	17	2	19
<i>Bulgaria</i>	0	333	333
China	41	7	48
<i>France</i>	0	3	3
Georgia	1	1	2
<i>Germany</i>	0	57	57
<i>Greece</i>	0	2	2
<i>Hungary</i>	0	9	9
<i>Italy</i>	0	5	5
Iraq	0	1	1
Israel	1	0	1
Jordan	1	0	1
Kazakhstan	5	4	9
Korea	1	0	1
Kosovo	2	0	2
Kyrgyzstan	0	2	2
<i>Latvia</i>	0	2	2
<i>Lithuania</i>	0	28	28
Macedonia	7	5	12
Moldova	226	15	241
Mongolia	374	9	383
<i>Netherlands</i>	0	2	2
Nigeria	1	0	1
Pakistan	1	0	1
<i>Poland</i>	0	735	735
<i>Romania</i>	0	303	303
Russia	13	15	28
Serbia	2	2	4
<i>Slovakia</i>	0	2 998	2 998
<i>Slovenia</i>	0	1	1
<i>Spain</i>	0	8	8
<i>Switzerland</i>	0	3	3
Turkey	1	1	2
Ukraine	1 357	160	1517
<i>United Kingdom</i>	0	2	2
United States	2	0	2

Uzbekistan	59	0	59
Vietnam	1 027	178	1205
Total	3 170	4 916	8 086

Numbers of illegally employed foreign nationals, or undocumented, according to citizenship as at 31. 12. 2010

State of citizenship	Illegally employed foreign nationals – nationals subject to work permit requirement	Undocumented employment of foreign nationals	Total
Algeria	1	9	10
Armenia	0	3	3
Australia	0	1	1
<i>Austria</i>	0	9	9
Azerbaijan	1	1	2
Bangladesh	6	3	9
<i>Belgium</i>	0	1	1
Belarus	5	8	13
Bosnia and Herzegovina	0	1	1
Brazil	3	0	3
<i>Bulgaria</i>	0	303	303
Chad	0	1	1
China	17	52	69
Croatia	3	1	4
Cuba	0	1	1
<i>Denmark</i>	0	1	1
Egypt	0	10	10
<i>Estonia</i>	0	1	1
<i>France</i>	0	7	7
Georgia	2	0	2
<i>Germany</i>	0	67	67
<i>Greece</i>	0	2	2
<i>Hungary</i>	0	13	13
India	2	3	5
<i>Ireland</i>	0	9	9
<i>Italy</i>	0	8	8
Iraq	16	1	17
Israel	1	0	1
Japan	0	8	8
Kazakhstan	2	9	11
Korea	1	0	1
Kosovo	3	1	4
Kyrgyzstan	0	3	3
<i>Latvia</i>	0	19	19
Lebanon	0	5	5
<i>Lithuania</i>	0	30	30
Macedonia	1	2	3
Malaysia	0	1	1
Mexico	0	1	1
Moldova	67	12	79
Mongolia	216	26	242
Montenegro	0	1	1
Morocco	1	0	1

<i>Netherlands</i>	0	2	2
Peru	0	2	2
Philippines	0	39	39
<i>Poland</i>	0	490	490
<i>Portugal</i>	0	2	2
<i>Romania</i>	0	236	236
Russia	13	53	66
Serbia	2	12	14
<i>Slovakia</i>	0	2 241	2 241
South Africa	0	1	1
<i>Spain</i>	0	2	2
Syria	1	2	3
Thailand	1	1	2
Tunisia	0	3	3
Turkey	8	2	10
UAE	1	0	1
Ukraine	1 050	466	1 516
<i>United Kingdom</i>	0	20	20
United States	0	12	12
Uzbekistan	28	2	30
Venezuela	0	1	1
Vietnam	344	212	556
Yemen	0	1	1
Total	1 797	4 435	6 232

Overview of total and average size of fines imposed for illegal and undocumented employment from 2005 to 2010:

Year	Sum total of all fines imposed	Sum total of fines imposed on employers	Sum total of fines imposed on employees	Average size of fines imposed on employers	Average size of fines imposed on employees
2005	34 256 500	<i>not specified</i>	<i>not specified</i>	-	-
2006	23 766 553	23 359 053	407 500	36 499	3 087
2007	21 896 900	21 566 200	330 700	33 230	2 432
2008	30 213 400	29 418 700	794 700	35 274	4 730
2009	47 405 400	46 700 200	705 200	47 702	3 731
2010	44 983 100	44 556 600	426 500	41 603	2 524

Overview of total numbers of fines imposed on employers and employees from 2005 to 2010:

Year	Total number of fines imposed on employers	Total number of fines imposed on employees	Total number of fines
2005	<i>not specified</i>	<i>not specified</i>	1 254
2006	640	132	772
2007	649	136	785
2008	834	168	1 002
2009	979	189	1 168
2010	1071	169	1 240