

### **3. ECONOMIC ACTIVITY OF FOREIGNERS**

Data concerning the employment of foreigners within the Czech Republic are derived from the Czech Ministry of Labour and Social Affairs' records on valid work permits granted to foreigners and pieces of information on taking up of work by citizens of the EU/EEA and Switzerland, on books of employment offices, as well as from records on foreigners holding trade licences granted by the Ministry of Industry and Trade of the CR.

#### **1) Records of the Ministry of Labour and Social Affairs of the Czech Republic**

##### **Employment of foreigners with status of employees**

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

Other foreigners, who are not citizens of the EU/EEA and Switzerland or their dependants, can execute work on the territory of the CR on condition that they received work permit and residence permit provided that Act on Employment does not stipulate otherwise.

##### **Employment of foreigners with status of registered entrepreneurs**

Regarded as employment is also fulfilment of ordinary tasks ensured by:

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

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

Ordinary tasks resulting from the business activity of a business company or a cooperative are not tasks, which are fulfilled by statutory or other bodies of a business company or a cooperative on the grounds of their function, e.g. conduct of a business by a business agent, participation in management of a cooperative by a member of the board of the cooperative, activity of a member of a supervisory board, etc. Tasks of statutory bodies are specified in the Commercial Code.

##### **Valid work permits of foreigners**

The information on valid work permits granted to foreigners provided in this chapter pertains exclusively to persons holding visas for a temporary short-term stay up to 90 days and long-term visas over 90 days.

**Work permit** can be granted to a foreigner by an employment office for a job vacancy, which is reported by the employer to be vacant and which cannot be filled otherwise with regards to the required qualification or lack of free labour force and the employer obtained permission to attract employees from abroad.

**Work permit with regards to the situation on the labour market** (the employer must have permission from the employment office to attract an employee from abroad) is granted also to a foreigner who will be a seasonal employee for the period of six months in a calendar year provided that between individual employments a six-month period passes.

**The following are also obliged to ask for a work permit: an associate, a statutory body or a member of a statutory body or another body of a business company or a member of a**

**cooperative or a member of a statutory or another body of a cooperative, who fulfils tasks for the business company or the cooperative resulting from the business activity of the legal entity. In that case, a permit for obtaining of foreigners is not required; a business company or a cooperative shall only inform the labour office about the characteristics of tasks that will be ensured by the associate or the member of the cooperative. When granting a work permit, the labour office takes into consideration the situation on the labour market.**

**Work permit regardless the situation on the labour market is granted to a foreigner**

- who will be employed for a limited period for the purpose of improving his or her skills and qualification in the selected job (trainees), but only for a period of maximally one year. This period can be prolonged, but as a maximum only for the period necessary to obtain professional qualification in accordance with regulations valid in the Czech Republic;
- up to 26 years of age performing occasional and time-limited works within exchange between schools or youth programmes, in which the Czech Republic participates;
- who is a clergyman of a church registered in the Czech Republic or of a religious society;
- for whom it is stipulated in a published international agreement, the ratification of which was approved by the Parliament of the CR and which is binding for the Czech Republic;
- who was granted a stay sufferance visa in accordance with the Act on the Residence of Foreigners or was granted a long-term residence permit for the same purpose;
- who is an applicant for international protection or who was granted a residence visa for more than 90 days for the purpose of stay sufferance , however, after 12 months following the submission of the application for asylum, at the earliest;
- who will perform work on the territory of the Czech Republic based on their being elected or nominated to their office; in that case the employer shall substantiate in writing that it is a job position filled by an election or nomination (Sections 147 of the Act on Employment).

*In the mentioned cases it applies to vacancies for filling of which the employer does not need a permission to obtain employees from abroad.*

*Data on work permits granted come from the records of individual employment offices, which in accordance with Act No. 435/2004 Sb., on Employment, decide within administrative procedure on granting or revocation of work permit.*

**Work permit is not required** from foreigners who:

- a) were granted asylum on the territory of the Czech Republic or were granted additional protection;
- b) are holding permanent residence permit for residence on the territory of the CR;
- c) are dependants of members of diplomatic missions and consular authorities or of employees of international governmental organizations residing in the CR, provided that reciprocity is provided by an international agreement;
- d) are
  - performing artists,
  - teachers,
  - academics at universities,
  - employees of universities attending scientific events,
  - pupils or students up to 26 years of age,
  - athletes,

*individuals that ensure in the CR deliveries of merchandise or services, or deliver and/or assemble this merchandise themselves on grounds of a trade contract, or perform guarantee and repair work,*

*persons whose residence in the CR is not in excess of 7 consecutive calendar days or a total of 30 days in a calendar year;*

- e) are employed on the territory of the CR in accordance with an international agreement, the ratification of which was approved by the Parliament of the CR and which is binding for the CR;*
- f) are members of rescue units providing aid in compliance with international agreements on mutual aid in removing aftermaths of accidents and natural disasters and in events of humanitarian aid;*
- g) are employed in international public transit, if they were sent by their foreign employer for performance of their work on the territory of the CR;*
- h) are persons accredited in the area of mass media;*
- i) are military or civilian staff of the armed forces of a country of origin (sending-out country) in accordance with a special act;*
- j) perform work within preparation for their future occupation at schools and school establishments included in the network of schools, pre-schooling and school establishments;*
- k) are sent to the territory of the Czech Republic within provided services by an employer seated in another EU Member State;*
- l) on the territory of the Czech Republic stay on the grounds of a long-term residence permit for the purpose of joint cohabitation of the family, if it applies to joint cohabitation of a family with a foreigner under the letters a) or c);*
- m) stay on the territory of the Czech Republic on the basis of a long-term residence permit of other EU member state resident for the purpose of employment if more than 12 months passed from granting of this permit;*
- n) who performs in the Czech Republic systematic educational or scientific activity as a teacher, employee of university attending scientific events or a scientist, researcher or research worker in a public research institute or another research organization according to a special regulation (this letter is effective from 21 December 2007).*

*In the case of employment of a foreigner under the letters a) to e) and letters j) to n), however, the employer or legal or natural person, to whom a foreigner was sent by his or her employer on the basis of a contract for performance of work – is obliged **to inform in writing on this fact the relevant employment office on the day when the foreigner starts to perform his work as the latest.***

#### **Work permit cannot be granted to a foreigner, who**

- applied for granting of international protection in the Czech Republic, namely for the period of 12 months from the day of submission of the application for international protection or*
- does not meet some of the conditions set by the Act on Employment for granting of a work permit.*

#### **Types of work permits**

Individual permit - a permit to employ a foreigner under a contract of employment by a domestic employer. The domestic employer is a legal or natural person authorized to carry out economic activities in the CR on the grounds of (i) a record in the Commercial Register or another register stipulated by the law (e.g. the Trade Licences Register or the Patent Agents Register), (ii) a record in other relevant registers (e.g. the Auditors Register or the Tax Consultants Register or (iii) an entry in specified records kept by an competent authority of the CR (such as records of self-

employed farmers). The domestic employer is also a natural person, which does not run a business and employs another natural person for its own needs.

Contract - regards employment of a foreigner by a legal or natural person residing outside the CR, which is not engaged permanently in business in the CR and dispatches its employees to the CR to execute business or other contracts concluded with a domestic legal or natural person.

### **Employer's duty to inform**

Citizens of the EU/EEA and Switzerland and their dependants do not need to have a work permit for the purposes of employment on the territory of the CR. Employers or legal or natural persons to which citizens of the EU/EEA and Switzerland and their dependants are sent, are obliged on the day of start of execution of work of these persons as the latest to inform in writing about this fact the employment office, which is relevant for that as for the place of execution of the work.

This duty to inform applies also to other foreign citizens who for execution of their work on the territory of the CR do not need a work permit (see points a) to e) and points j) to n) of the above-mentioned information starting with "Work permit is not required").

### **Records of foreign nationals**

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

The tabular summaries by countries point to certain traditions, but also to possible free movements (Slovakia), cooperation persisting from the past (Poland, Bulgaria), offers of less skilled jobs (Ukraine, Romania, Moldova, Belarus), and last but not least the opening of labour market to other countries, when the inflow of capital to the CR is accompanied by the inflow of labour force, too (Germany, United States, United Kingdom, France, etc.).

In the end of 2007, on the territory of the Czech Republic the total of 240 242 foreign employees were registered at labour offices.

Prevailing part of citizens of the EU/EEA and Switzerland registered at labour offices (144,7 thousand in total) are citizens of Slovakia (101,2 thousand in total in the end of 2007). Of other EU Member States, a high number of workers are from Poland (23,6 thousand), Bulgaria (5.3 thousand, i.e. by 3.4 thousand more than by the end of the year 2006), Romania (4.3 thousand, i.e. by 3.1 thousand more than by the end of 2006) and more than 1 thousand of persons are from Germany and the United Kingdom and France. Generally, more of them are men (69% of employees from the EU Member States).

As for citizens of other countries, dominating are nationals of the Ukraine (61.6 thousand persons). In the end of 2007, a higher increase of citizens of Viet Nam than in the year 2006 was recorded (by 4.7 thousand), Mongolia (by 4.1 thousand) and Moldova (by 2.1 thousand). Number of citizens of other four countries (Russia, the United States, Belarus and China) was higher than 1 thousand persons in the same period. Also in this group men are prevailing (65% of workers from other countries).

## **2) Records of the Ministry of Trade and Industry of the Czech Republic**

### **Foreigners holding trade licence**

Under Trades Licensing Act No. 455/1991 Sb., as amended, foreigners can do business in the CR like Czech citizens, if they fulfil elements stipulated by this Act and associated regulations. They are allowed to do business in the framework of the Act above as foreign natural persons, but they can also set up in the CR legal persons or found organizational components of their enterprise abroad. Foreign natural person is a natural person that has no permanent residence in the CR, but whose residence shall be permitted for the purpose of doing business (Act No. 326/1999 Sb.), unless such a natural person is a citizen of an EU member country the CR entered into an agreement free of this restriction with. This stipulation thus applies also to nationals of a country,

which is bound by an international agreement concluded with the European Community as well as to nationals of a country, which is bound by the EEA contract.

For the purpose of this publication, the concept of “**foreigner holding trade licence**” has been chosen, because the numbers of entrepreneurs include entrepreneurs-foreigners with transitional stay above 90 days, entrepreneurs-foreigners with permanent residence or persons, who were granted asylum or additional protection, and citizens of the EU member states and citizens of Switzerland, Norway, Iceland and Liechtenstein, who produced a document on permanent residence from their country to get a trade licence.

The trade licence for foreign natural persons (i.e. entrepreneurs with stay above 90 days for the purpose to carry out business activities) comes into force on its entry in the Commercial Register in the scope written there. For other foreigners in business under the Trade Licensing Act (citizens of the EU member states, citizens of the European Economic Area, foreigners with permanent residence, and refugees), the trade licence comes into force on the day of notification (or in the case of permitted trade on the day the decision on awarding the trade permit came into force). The exception to the rule of obligatory entry in the Commercial Register does not apply to citizens of Switzerland, because Switzerland is neither a member of the EU nor a member of the EEA. It should be noted that entrepreneurs in business under the Trade Licensing Act can run more trades than one provided that they have trade licence for each of the trades and this also applies to foreigners.

The number of entrepreneurs-foreigners holding trade licence was gradually increasing from one year to another. The number dropped in 1998 for the first time as a result of the amendment to the Trade Licensing Act, which was published in the Collections of Laws under No. 286 in 1995. The amendment imposed rather strict duties on entrepreneurs as to submitting law-specified documents. Another decrease occurred after 2001, again as a response to another amendment to the Trade Licensing Act, which was published in the Collections of Laws under No. 356 in 1999. This amendment and Act No. 326/1990 Sb., on the Residence of Foreigners in the Czech Republic, made stricter the conditions for granting long-term visas for the purpose of carrying out business activities on the one hand, but allowed the EU 15 citizens to run business in the Czech Republic only on the basis of their being EU citizens on the other hand.

Given the facts above, the trade licensing offices started to gradually discard from records the entrepreneurs-foreigners who failed to submit required documents on residence and other documents. This made entrepreneurs-foreigners decrease in number in 1998 and 2002. However, since 2003 a rather high increase of these persons showed already in practice.

On 1 May 2004, the so-called Euro-amendment to the Trade Licensing Act came into force; it was published in the Collection of Laws of the CR under No. 374 in 2004. This legal document liberalized the conditions for start of trading - e.g. status of the EU citizens and Czech citizens were made equal as for submitting of documents necessary for obtaining of the trade licence or for proving of professional skills; however, the number of entrepreneurs from the EU increased by about the same number as during the last two years.

The number of foreigners from the EU Member States with valid trade licence was continually increasing and in 2004 and 2005 more than 13 thousand of entrepreneurs-foreigners were registered in the Czech Republic. In 2006, the number of entrepreneurs-foreigners decreased. However, this drop is not fatal and can be explained by the intended transmission of data from the existing local registers of entrepreneurs into a new central information system which, among other things, brought about the elimination of duplicate data entered into the system in local registers. In 2007, the number of entrepreneurs-foreigners again increased. Majority of foreigners are Slovak nationals (8.7 thousand); fewer of them are Polish and German citizens (over 1 thousand persons). Unlike working foreigners registered at labour offices the share of the EU member states makes only one fifth of all foreigners with trade licence. The total number of entrepreneurs is influenced especially by citizens of Viet Nam (24.4 thousand) and citizens of the Ukraine (21.6 thousand). Citizens of Viet Nam are more interested in doing business on the territory of the Czech Republic, which is clearly attributed to the entry of the Czech Republic to the Schengen area and benefits

resulting from that for entrepreneurs. Of other countries, the number of entrepreneurs exceeding 1 thousand was recorded for citizens of Russian Federation, Serbia and Montenegro and Bulgaria.

### **3) Total employment of foreigners**

Total employment of foreigners refers to the sum of valid work permits of foreigners, number of foreigners registered by public employment offices, and number of foreigners holding trade licence. The exceptions are Tables 3-14. to 3-16., which present a wider estimate of the number of foreigners working in the CR (see the notes on methodology below).

#### **Foreigners holding residence permits**

The total number of foreigners holding residence permit is derived in the introductory Tables 3-1. and 3-2. as the sum of the number of foreigners with permanent residence and the number of foreigners with 90+days visas. (See Chapter 1. 'Demographic Aspects of the Foreigner's Life in the Czech Republic for definitions of these categories.) The figures on the number of residing foreigners presented in this chapter are for guidance only, as they do not include, for example, persons with visa up to ninety days; however, working persons having the visa are included in the total number of working foreigners.

#### **Workers in main employment**

**Workers in main employment in the civilian sector of the CR** (Tables 3-14. to 3-16.) were quantified on the basis of results provided by the Labour Force Sample Survey (LFSS). Classified to this category are persons belonging to one of the following groups:

- a) single job holders - i.e. respondents with formal job attachment to one employer only or whose business activity is the only source of their incomes,
- b) multiple job holders (main, secondary) - persons with more work activities performed for wage, salary, or another type of compensation for the work done; the job in which the holder works full time or more hours than in the other job is taken for the main one.

All the data measured by the LFSS are weighted by the frequency of age groups of males and females, which was projected into the individual mid-quarters based on definitive demographic data referring to 31 December of the years 2001 – 2006. This method of calculation corresponds best to the circle of persons included in the survey. The LFSS is a continuous all-year-round survey. For this reason Tables 3-14. to 3-16. show annual averages (unlike the other tables). The data do not include members of the armed forces.

These tables also encompass other categories of foreign citizens, which are included in the total number of foreigners - main jobholders - in the CR:

- underestimation: the category of these employed foreigners is based on the difference between development of the number of persons with permanent or long-term residence (since 2000: on the number of foreigners with 90+days visas), and the total of persons with trade licence and work permits (from 2005 number of foreigners registered at labour offices). The quantification took account of the proportions of the given characteristics in the second half of the 1990s in particular. Included in the underestimated are also estimated numbers of foreigners with illegal stay. Data on employment of other states citizens staying illegally in the Czech Republic are not available. These data cannot be collected objectively in a regular statistical survey and the estimate of total employment of foreigners on our territory should be made within the quantification of employment i.e. shadow economy. For the first time, as at the end of 2004, data on the number of the underestimated were divided between the employed and the self-employed with regards to the disproportions between the data on migration and employment by nationality.

#### **Professional status**

Employees (Table 3-14.) are individuals with a formal job attachment, disregarding whether they really worked in the reference week or not. For the needs of international comparison, the group of employees also includes members of production cooperatives, as recommended by ILO.

The self-employed include all employers (entrepreneurs with employees) and own account workers (entrepreneurs without employees). Family workers are also classified to the self-employed, disregarding the number of hours they worked in reference week.

### **CZ-NACE activities (Table 3-15.,3-15.1)**

The national Industrial Classification of Economic Activities ("OKEČ", also referred to as the CZ-NACE) is fully based on the international standard Nomenclatures des Activités Économiques des Communautés (NACE) compatible with the International Standard Industrial Classification of all Economic Activities (ISIC, Rev. 3).

### **Illegal employment**

This publication newly includes table on numbers of foreign citizens, who were not granted necessary work permits and were captured during the years 2005-2007 by controlling bodies of labour offices while performing illegal work.

In 2007 as well as in previous years, labour offices made by themselves or together with other bodies of state administration (Alien Police, Czech Customs Administration, labour inspectorates, trade licensing offices, tax authorities) controls of how foreign citizens are employed. In 2007, labour offices made 1 484 controls among employers, who employed foreign workers. In total, 21 897 foreign workers were controlled, which is by 12 363 persons more than in 2005 (9 534 persons in total) and by 9 803 persons more than in 2006 (in total 12 094 persons).

From the above-mentioned number of controlled persons, in 2007 without work permit there were 1 662 illegally employed foreigners (i.e. 7.6%), in 2005 it was 1 939 illegally employed foreigners (i.e. 20.3%) and in 2006 there were 1 701 illegally employed foreigners (i.e. 14.1%).

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The number of foreigners registered by labour offices (until October 2004 the offices registered exclusively persons with the status of the employed) was falling rapidly in the second half of 1990's down to 93.5 thousand in 1999. After a temporary increase in 2000 - 2001 their number decreased again to 101.2 thousand in 2002; this development was influenced exclusively by the drop in number of working Slovak citizens. Since 2003, however, a slight increase in number of working employees is obvious; it totalled 108.0 thousand as at 31 December 2004. From 2005, there was a sharp increase in the number of foreigners up to 185.1 thousand by the end of 2006. The extraordinary surplus of those working foreigners increased year-on-year in 2007 by almost 30% by 55.2 thousand to 240.2 thousand persons.

The number of foreigners with status of the employed depends on the situation in the labour market. Areas with low percentage of unemployment usually report higher number of foreigners with work permit granted or registered with employment offices (Praha and some districts of the Středočeský Region). A big increase in the number of working foreigners was recorded in Plzeň and in the Pardubice district.

The growth shown among citizens of non-EU countries is related also to the legislative duty to register at labour offices business associates and members of co-operatives, who fulfil tasks resulting from the business activity of the legal person. In the end of 2007 of the total number of 95.5 thousand citizens of non-EU countries registered at labour offices 3.8 thousand had status of associates (4%) and 25.1 thousand had status of co-operative members (26.3%).

The number of foreigners holding trade licence culminated in the late 1997 (next to 63 thousand persons) for the first time, rising almost 3.5 times compared to the end of 1994. The year 1998 saw a drop of almost one third on the previous year. Since the year 2000, this trend of the number of these working foreigners has been affected by the amendment to the Trade Licensing Act. And making stricter the condition for obtaining long-term visa for the purpose of business, associated with the amendment, led to a relatively high drop in the number of these

persons in 2002. From the following year, however, the number of entrepreneurs was increasing and in the end of 2005 it reached more than 67 thousand persons. In 2006, however, the number of foreigners-entrepreneurs slightly dropped, but last year it reached its historical maximum of almost 69 thousand.

There is still persisting some differentiation between the development in the number of foreigners with permanent residence or stay over 90 days and register of working foreigners at labour offices or trades licensing offices. In the process of harmonization of data on employment the underestimation made by the CZSO for the need of the national account statistics is guessed. **Grossing up (underestimation)** – the category of these working foreigners according to a more precised methodology from the year 2008 results from a discrepancy among the source of the Ministry of the Interior (the total number of foreigners with usual residence on the territory of the Czech Republic) and other sources including groups of foreigners by their economic activity (economically active versus economically inactive) and the status in employment (employees versus the self-employed). The number of foreigners – employees – is provided by the Ministry of Labour and Social Affairs, while the number of the self-employed foreigners is from the Ministry of Industry and Trade. The number of economically inactive foreigners - students can be obtained from the register of the Institute for Information on Education and persons economically inactive with another reason than studying can be obtained only from the data of the Ministry of the Interior. By counting up all the component items we can obtain values, which we compare according to individual citizenships with the total number of foreigners according to the Ministry of the Interior. The discrepancy among those sources then creates the difference, which is further according to the qualified estimate broken down among individual groups of foreigners by their economic activity and their status in employment.

According to a modified methodology of the CZSO, guessed underestimations from the year 2004 were also recalculated. By the end of 2007 the underestimation reached 80 thousand persons. Underestimation in 2004 reached the level of 50 thousand persons.

Total employment in the civil sector on the territory of the CR in the period 2003 and 2004 more or less stagnated. However, from 2005 the total number of the employed grew rapidly and in 2007 it reached 5187.7 thousand persons i.e. by almost 340 thousand more than in 2004. The number of working foreigners increased in the three-year period by 136.6 thousand persons to 356 thousand and the category of foreigners contributed by 2/5 to the aggregate growth of employment on the territory of the CR.

The absolutely highest number of foreigners were employed in the last year in manufacturing industry, however, relatively the most important is their contribution to total employment in construction, activities related to the real estate and lease, in business activities, and also in trade.