

rutland ježek on the amendment to the Act on Residence of Foreign Nationals

We have prepared a short article regarding changes introduced by the latest amendment to the Act on Residence of Foreign Nationals Territory (Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Territory of the Czech Republic and a Change to Some Acts, as amended). This change implements three European directives and also reacts to court decisions and observations from practice.

This amendment also introduces new residence permits, so called Blue Cards, or employers' responsibility for their employees with foreign nationality. One of the most important changes is a change in the authority responsible for the decision on granting a long-term visa and a long-term/temporary residence permit. **Since 2011 the Ministry of the Interior has taken over this agenda from the Foreign Police, that means that offices dealing with the issues related with residence are changed – they are not Foreign Police Departments any more, but new regional offices of the Department for Asylum and Migration Policy of the Ministry of the Interior.**

1. Changes in the proceedings for granting a long-term visa

A foreign national can only submit the application for a long-term visa at the Czech embassy in his/her country of origin. The applicant is obliged to undergo **an interview** if the embassy calls him/her to it. Henceforth, and **applicant can't give a power of attorney to his/her attorney**, but the applicant must always attend the interview in person.

In case of denial of the application, the Ministry of the Interior shall inform the applicant in writing about the reasons for non-granting the long-term visa and the applicant is entitled to request new assessment of reasons for non-granting the visa within 15 days upon delivery of the information about non-granting the long-term visa.

2. Main changes in the conditions for the entry and stay of foreign nationals in the Czech Republic

The term of validity of a long-term visa is shortened. A long-term visa will be newly issued for the **maximum period of 6 months**. If the purpose of the foreign national's residence in the Czech Republic requires a stay exceeding 6 months, the foreign national is obliged to submit an application for a long-term residence **not earlier than 90 days and not later than 14 days** before the long-term visa validity expiration. The foreign national shall submit such application at a regional office of the Ministry of the Interior. And again, an applicant for a residence permit (both long-term and permanent) is **obliged to attend in person the regional office of the Ministry of the Interior**.

3. New form of residence permit cards (long-term and permanent residence)

Since May 2011 citizens of third countries will be issued **residence permit cards with biometric data**. The previously issued residence permit cards remain to be valid for the period of validity specified therein. If the application submitted in the embassy was approved, a foreign national is obliged to attend in person the determined regional office of the Ministry of the Interior for taking biometric data (face image and fingerprints) within 3 business days upon the entry into the Czech Republic. In case the applicant submitted such application during his/her stay in the Czech Republic, the applicant will be called to provide biometric

data by the Ministry of the Interior. After being granted the residence permit card, the applicant will be called to take over the card by the Ministry of the Interior. In case the applicant fails to take over the long-term residence permit card within the stipulated term, the proceeding will be stopped and the applicant can be imposed on a fine up to CZK 10,000.00!

4. New requirements for the proof of securing accommodation

A proof of securing accommodation is required for an application for granting a long-term visa, long-term or permanent residence. A foreign national is obliged to prove securing accommodation by a document proving that the applicant is owner of the respective flat or house or that the applicant is entitled to use it based on a lease. Also the applicant can present authenticated confirmation of a person who is the owner or authorized user of the respective flat or house that the applicant agrees with accommodating the foreign national. **Any other document** will not be recognized as a proof of securing accommodation! Accommodation can only be secured in a building intended for living, accommodation or recreation.

5. New requirements for the proof of travel health insurance

In the case a foreign national asks for granting a long-term visa or issuing a long-term residence permit abroad submitting of a proof of travel health insurance is required. The amount of **the insurance payment limit must be at least EUR 60,000.00**.

If a foreign national submits the application abroad, the travel health insurance can be taken also out at an insurance company which is entitled to provide such insurance in the other member states of the European Union and/or in the European Economic Area (Iceland, Lichtenstein, Norway), not only in the Czech Republic. In such cases, the foreign national is obliged to submit an officially authenticated translation of the insurance policy and general insurance terms and conditions to Czech together with the proof of travel health insurance. Please note that issues of coverage can arise in connection with different policies and therefore it is advisable to consider taking out the Czech insurance company policy.

In the case the foreign national has already stayed in the Czech Republic and asks for extending the term of residence for a long-term visa or issuing a long-term residence permit in the Czech Republic or extending the validity of such permit, submitting a proof of travel health insurance is required to the application which can **only be taken out at an insurance company authorized to provide such insurance in the Czech Republic** and it must be taken out in the scope of complex healthcare.

A foreign national is not required to submit a proof of travel health insurance if the applicant is a participant in the public health insurance or if the payment of costs of healthcare is paid on the basis of an international treaty, or if the foreign national proves that healthcare is paid in a different manner.

An applicant will not be asked to submit a proof that the applicant has taken out the insurance before his/her visa is noted in his/her passport so there is no need to sign the insurance conduct before the applicant is granted a long-term visa.

See the article “Health Insurance for Long Term Visas: 2011 Update” published on expats website.

6. Changes in the stay for the purpose of conducting business

A residence permit for the purpose of a profit-making activity in the Czech Republic will only be issued to foreign nationals for the purpose of **"employment" or "conducting business"**.

Newly a foreign national willing to stay in the Czech Republic as an executive of a company or a cooperative, shall submit an application for residence permit for the purpose of conducting business, i.e. the same as a self-employed person. There are not two categories of residence permits any more, i.e. a residence permit is not issued for the purpose of "participation in a legal entity".

An applicant for granting a long-term visa for the purpose of conducting business is always obliged to attend an interview at the embassy.

In the case a foreign national intends to change his/her previous purpose of stay to the purpose of conducting business, the applicant can ask for such change if the applicant legally stays in the Czech Republic for the period of at least 2 years.

7. The Blue Card

The Blue card is a new residential permit for the purpose of performing employment requiring high qualification. The blue card entitles a foreign national to reside and at the same time to be employed, i.e. the foreign national will not need a separate work permit.

An application for issuing the blue card can be submitted at the embassy by a foreign national if the applicant intends to stay in the Czech Republic **for the period exceeding 3 months** and the applicant will be employed at a job position requiring high qualification which means a **duly completed university education or higher professional education which has lasted for at least 3 years.**

The foreign national is obliged to submit an employment contract agreed at least for the period of one year and documents proving his/her high qualification to the application for issuing the blue card.

One of the conditions for issuing the blue card is a wage criterion - the employment contract must contain gross monthly or yearly wage at least at the rate of 1.5 multiple of the gross average annual wage (**for the purpose of issuing the blue cards in the period between January 1, 2011 until April 30, 2011 the gross average annual wage in the Czech Republic is 283 176 CZK**).

The Blue card is issued with the term of validity 3 months longer than the term for which the employment contract has been concluded, however for the maximum period of 2 years, but it can be extended.

A change to the employer or job classification of a blue card holder during the first two years of stay in the Czech Republic is subject to the approval of the Ministry of the Interior.

A Blue card holder will be allowed to obtain permanent residence/the status of a long-term staying resident in the European Communities after 5 years of the stay in the Czech Republic of the EU member states, whereas the applicant must stay as a blue card holder in the

Territory of the Czech Republic for the last 2 years. The blue card stays from various EU member states are included in the period of 5 years.

A Blue card holder and his/her family members will be allowed to reunify the family with no minimum period of the previous stay in the Territory Republic, i.e. immediately.

8. Changes in administrative expulsion

Changes in deportation

If a foreign national stays on the Territory of the Czech Republic without authorization, the Police shall issue to him/her a decision on the obligation to leave the Czech Republic which contains a decision on administrative expulsion. On the basis of such decision, a foreign national is obliged to leave the Territory of the Czech Republic (and to move to the state where the applicant has authorization to reside).

A decision on administrative expulsion will be newly issued with the validity for the entire territory of the European Union; the ban on entry will thus cover the entire territory of the European Union (it does not apply to the citizens of the European Union and their family members). The provision on the payment of costs associated with administrative expulsion is completely newly worded. **An employer who has employed a foreign national without the work permit (if required) or without a valid residence permit is obliged to pay these costs as the first party in order. Second obliged party is the foreign national.**

Changes in detention

In the case a foreign national breaches conditions for residence and the applicant is imposed on the administrative expulsion, the Police can, instead of detention, newly impose on him/her a special measure for the purpose of departure. Such measure is e.g. a foreign national's obligation to stay at the address of the place of residence the applicant has announced to the Police, announce every change of it to the Police and regularly report to the Police in person in the set intervals, or depositing a financial guarantee in the form of money at the rate of estimated costs associated with the administrative expulsion. Families with minors will only be allowed to be detained for the period of 90 days. In special cases when a foreign national specifies untruthful data about his/her identity or defeats the execution of expulsion and his/her expulsion will still be enforceable, the Police will be entitled to extend the detention up to 18 months. This does not apply to families and unaccompanied minors.

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