

Act No. 123/1992 Coll. of 4 March 1992 on Foreigners' Stay and Residence in the Czech and Slovak Federal Republic

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Comments This is an unofficial translation. The Act was amended by Law No. 190/1994 and REF\LEG\299.

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The Federal Assembly of the Czech and Slovak Federal Republic^[1] has adopted the following Act:

PART ONE - BASIC PROVISIONS

Section 1 - The Purpose and Scope of the Act

- (1) The purpose of this Act is to lay down the conditions for foreigners to enter into and to stay or reside in the CSFR and for foreigners to travel abroad from the CSFR.
- (2) This Act shall not apply to a foreigner who has applied for refugee status or who has been granted refugee status in the CSFR, unless a special legislative act or regulation (Note 1) provides otherwise.
- (3) For the purposes of this Act, anybody who is not a citizen of the CSFR under its laws is a foreigner.

Section 2 - Entry into the CSFR

- (1) A foreigner may enter the CSFR to stay or reside in the CSFR, and to travel abroad from the CSFR, only with a valid travel document accompanied by a valid CSFR visa, unless it is stipulated otherwise in an international treaty binding on the CSFR. The visa shall not be required if the CSFR government so provides.
- (2) When entering the CSFR or leaving the CSFR to go abroad, a foreigner may cross CSFR state borders only at those border crossings which are designated for international passenger traffic, unless stated otherwise in an international treaty (agreement, convention) binding on the CSFR.
- (3) When crossing the CSFR state border, a foreigner is obliged to submit to an inspection by the Federal Ministry of the Interior.

(4) A visa granted by a Czechoslovak diplomatic mission or consulate abroad may be cancelled by the Federal Ministry of the Interior prior to the entry of a foreigner into the CSFR for the reasons stated in section 14(1)(b), (d) and (e).

PART TWO - STAY OR RESIDENCE IN THE CSFR

Section 3

A foreigner may stay or reside in the CSFR either short-term, or long-term or permanently.

Short-term Stays

Section 4

(1) A foreigner is authorized to stay in the CSFR for a short term corresponding to the period of time stated in his [\[2\]](#) visa, and if there is no requirement for the travel document to be accompanied by a visa, then for a period of time designated by the CSFR's government, or by an international treaty binding on the CSFR.

(2) A short-term stay shall be permitted for no longer than a period of 180 days. If a short-term stay has been authorized for a period of less than 180 days, the stay may be extended by the Federal Ministry of the Interior on the basis of an application by the foreigner. The application must be submitted no later than three working days prior to the expiry of the authorized period. The Federal Ministry of the Interior shall decide about the application without any delay, but at the latest by the expiry date of the short-term stay.

Section 5

(1) A visa for a short-term stay shall be granted on the basis of an application submitted by a foreigner to a Czechoslovak diplomatic mission or consulate abroad, or to the Federal Ministry of the Interior in the CSFR.

(2) A foreigner is obliged, upon request, to enclose with his visa application for a short-term stay documents confirming the availability of resources (financial means) for his stay and for leaving the CSFR.

(3) The state governmental body authorized to grant a visa for a short-term stay may make this conditional upon the depositing of a sum of money in the amount of the necessary cost of the foreigner's travel abroad from the CSFR. If the foreigner travels abroad without making use of the deposited sum of money, it shall be returned to him.

(4) The competent authority shall decide on the granting of a visa for a short-term stay within 30 (thirty) days from the date of submission of the application.

(5) The general provisions concerning administrative proceedings (Note 2) shall not apply to proceedings concerning the granting of a visa for a short-term stay and for its extension.

Long-term and Permanent Residence

Section 6

(1) A foreigner is authorized to reside long-term in the CSFR for the period specified in his long-term residence permit.

(2) Long-term residence shall be permitted for the period of time necessary for the foreigner to attain his objective, but for no longer than one year. This term may be repeatedly extended, but never by more than one year. An application for an extension of the period designated in the long-term permit shall be submitted by the respective foreigner to the Federal Ministry of the Interior 14 days prior to the expiry of this period at the latest.

Section 7

A foreigner is authorized to reside permanently in the CSFR on the basis of a permanent residence permit. This residence permit may be granted, in particular, for the purpose of uniting a family, if the foreigner's spouse, direct relative (family member) or sibling resides permanently in the CSFR, or in other humanitarian cases, or if justified by the foreign policy interests of the CSFR.

Section 8

(1) If abroad, a foreigner shall submit an application for a long-term residence permit or permanent residence permit to a Czechoslovak diplomatic mission or consulate. If he is in the CSFR, his application must be submitted to the Federal Ministry of the Interior. An application for the extension of the period of time stated in the long-term residence permit shall also be submitted by the foreigner to the Federal Ministry of the Interior.

(2) A foreigner is obliged, upon request, to enclose with his application for the granting of a long-term residence permit or permanent residence permit, or with his application for an extension of the period of time stated in his long-term residence permit, documents confirming the purpose of his residence, evidence of the financial means at his disposal for the period of his residence, and evidence of his accommodation and integrity, and that he does not suffer from any infectious disease, the spreading of which is punishable by law (Note 3).

Section 9

(1) The Federal Ministry of the Interior shall make a decision on a foreigner's application for the grant of a long-term or permanent residence permit within 60 (sixty) days of its submission. If the Federal Ministry of the Interior approves the application, the appropriate Czechoslovak diplomatic mission or consulate shall issue a visa to a foreigner who is residing abroad, while in the case of a foreigner staying in the CSFR, his residence permit document ("prukaz povoleni k pobytu")^[3] shall be issued by the Federal Ministry of the Interior.

(2) The provisions of section 47 of the Administrative Procedure Code shall not apply to decision-making concerning the granting of long-term residence permits or permanent residence permits and their extension, provided that the application is granted in full.

Section 10

(1) The residence permit document shall contain information about the identity of its holder, his citizenship and his place of residence, together with other legal facts and registration information.

(2) A long-term residence permit document shall be issued and valid for the period of time stated in it, while a permanent residence permit shall be valid for a period of five years, as long as this does not exceed the period of validity of the foreigner's travel document.

(3) A residence permit document shall not be issued to a foreigner younger than 15 (fifteen) years of age, or to a foreigner who has been deprived of his capacity to perform juridical acts by a court decision.

(4) The holder of a residence permit document is obliged to see to it that the facts stated in it correspond to reality. He is obliged to apply for its extension to the Federal Ministry of the Interior no later than a fortnight (14 days) prior to its expiry. Should any of the data entered in the document change, its holder is required to inform the appropriate authority of the need to update the data, within three days of the occurrence of the change or changes.

Section 11

Employment of foreigners during their residence in the CSFR shall be governed by special legal provisions (Note 4).

PART THREE - TERMINATION OF RESIDENCE IN THE CSFR

Section 12

(1) A permit to travel abroad from the CSFR at the end of a period of long-term or permanent residence shall be granted on the basis of a foreigner's application to the Federal Ministry of the Interior, within 30 (thirty) days from the day of submission of the application.

(2) A permit to travel abroad from the CSFR may be denied to a foreigner, against whom:

(a) the execution of a decision concerning non-payment of alimony or financial obligations has been ordered in the CSFR;

(b) a criminal prosecution is in progress in the CSFR, or who has not served a sentence imposed by a Czechoslovak court, unless the sentence has been remitted or the carrying out of the punishment has become statute-barred.

(3) The general provisions governing administrative proceedings shall not apply to proceedings concerning the granting of a permit to travel abroad from the CSFR after the end of a period of long-term or permanent residence in the CSFR.

Section 13 - The Expiry (Termination) of the Residence Authorization

A foreigner's authorization to reside long-term or permanently in the CSFR shall expire (terminate) if the foreigner remains outside the CSFR continuously for a period of more than 180 days, without having notified the appropriate office of the Federal Ministry of the Interior thereof in advance.

Section 14 - The Prohibition of Residence in the CSFR

(1) A foreigner may be prohibited from residing in the CSFR for a period of no less than one year in the following cases:

(a) if he has been sentenced to unconditional imprisonment and the sentence has become effective, unless he is considered as not having been sentenced;

(b) if he has committed an act abroad which under the laws of the CSFR is considered an especially

serious crime (Note 5);

- (c) if he engages in an unauthorized gainful activity;
- (d) if he has violated the legal provisions on narcotics (Note 6);
- (e) if it is unavoidable for the security of the state, the maintenance of public order, the protection of health, or the protection of the rights and freedoms of others;
- (f) if he has violated his duty under this Act or another generally binding legislative act or regulation.

(2) The prohibition of a foreigner's residence or stay in the CSFR (hereafter referred to "as the prohibition of residence") may be cancelled only if the reasons for the prohibition cease to exist.

(3) The prohibition of residence and the cancellation of the prohibition of residence shall be decided by the Federal Ministry of the Interior.

(4) An appeal against a decision prohibiting residence shall not have a suspensive effect.

Section 15

(1) A foreigner who has been prohibited from residing in the CSFR is not permitted to enter the CSFR for the period of time stated in the prohibition of residence. Prior to the expiry of this period of time, a short-term stay in the CSFR may exceptionally be permitted to a foreigner if it is justified specifically by humanitarian reasons and the prohibition of his stay would cause undue hardship.

(2) A foreigner whose residence in the CSFR is prohibited may be granted an appropriate period of time, no longer than 30 (thirty) days, in which to leave the CSFR.

Expulsion

Section 16

(1) A foreigner who enters or stays or resides in the CSFR without authorization may be expelled.

(2) The decision on expulsion shall be made by the Federal Ministry of the Interior, which shall also arrange for the the expulsion to be carried out.

(3) Generally binding legislative act or regulations governing administrative proceedings shall not apply to the expulsion proceedings (Note 2).

Section 17

(1) After a decision to expel a foreigner has been made, the foreigner involved is obliged to stay at the place designated by the Federal Ministry of the Interior until his expulsion is carried out.

(2) If it can reasonably be expected that the foreigner will thwart or impede his expulsion, he may be detained, but for no longer than 30 (thirty) days.

Section 18 - Impediments to Expulsion

(1) A foreigner cannot be expelled to a state where his life or freedom would be threatened because of his race, religion, nationality, membership of a certain social group, or political convictions. This restriction shall not apply if a foreigner threatens the security of the state, or has been sentenced for an especially serious crime (Note 5).

(2) A foreigner cannot be expelled to a state which requests that he be given up due to a crime which is punishable under the law of that state by the death penalty.

PART FOUR - REPORTING AND RECORDING FOREIGNERS' STAY OR RESIDENCE

Reporting a Stay

Section 19

(1) A foreigner who is required to obtain a visa is obliged to report the place and date of the beginning of his short-term stay in the CSFR, and its expected duration, to the Federal Ministry of the Interior within three working days from the day of his arrival in the CSFR.

(2) A foreigner who is not required to obtain a visa is obliged to report the place and beginning of his short-term stay in the CSFR, and its expected duration, to the Federal Ministry of the Interior within three working days from the day of his arrival in the CSFR, provided that the duration of his stay is to be longer than 30 days.

(3) Reporting of residence by foreigners who reside in the CSFR long-term or permanently shall be governed by the legal provisions on citizens' reporting of their residence (Note 7).

(4) The stay or residence of a foreigner in an establishment which provides accommodation shall be reported by the operator of that establishment to the Federal Ministry of the Interior on the foreigner's behalf.

Section 20

An operator of an establishment providing accommodation is obliged:

(a) to record the beginning and ending of any foreigner's accommodation in that establishment in its register of accommodation and to present a copy of that entry to the Federal Ministry of the Interior within five days.

(b) to confirm the date of the beginning and ending of the foreigner's accommodation in a document on the issue of his visa;

(c) to submit the register of accommodation to the Federal Ministry of the Interior or another authorized body upon their request;

(d) to keep the register of accommodation for a period of five years from the date of the last entry relating to a foreigner's accommodation in that register and to submit, upon request, the register of accommodation to the Federal Ministry of the Interior.

Section 21 - Record-keeping of Foreigners' Stay of Residence

Records of foreigners' stay or residence shall be kept by the Federal Ministry of the Interior. Legislative acts

or regulations governing the records of citizens' residence or stay shall apply as appropriate to the records of foreigners' stay or residence and to the provision of information on the data kept in those records.

PART FIVE - DUTIES OF FOREIGNERS AND OTHER PERSONS

Section 22 - Foreigners' Duties

A foreigner is obliged:

- (a) to observe the laws and other generally binding legislative acts and regulations in effect in the CSFR;
- (b) to provide truthful and complete data in applications submitted under this Act;
- (c) to report, without delay, any loss or misappropriation of a document containing the granting of a visa or residence permit to the Federal Ministry of the Interior, or the nearest office of the Federal Police, or the Police of the Czech Republic, or the Police of the Slovak Republic;
- (d) to report the use of a foreign-registered motor vehicle in the CSFR to the Federal Ministry of the Interior without delay, if the foreigner uses the motor vehicle during the course of his long-term or permanent residence in the CSFR.

Section 23

If someone acquires, without a legitimate reason, a foreigner's valid travel document, or a foreigner's document on the granting of a visa, or a foreigner's residence permit, he is obliged to hand over that document to the Federal Ministry of the Interior or the nearest office of the Federal Police, or to the Police of the Czech Republic, or the Police of the Slovak Republic.

Section 24

- (1) Any state authority or local (district, municipal) administrative authority is obliged to notify, without delay, the Federal Ministry of the Interior of any occurrence which may constitute a reason for the prohibition of a certain foreigner's residence or stay in the CSFR.
- (2) The prosecuting authority (office) must, without delay, notify the Federal Ministry of the Interior of the commencement of criminal proceedings against a foreigner and of the commencement of proceedings concerning the extradition of a foreigner to another state.
- (3) The office (section) of the Federal Police, the Police of the Czech Republic or the Police of the Slovak Republic, or the prosecuting authority, must notify, without delay, the Federal Ministry of the Interior that a certain foreigner has been detained or apprehended or that he has been taken into custody.

Section 25

- (1) A transport operator, who has conveyed a foreigner by air or water into the CSFR without that foreigner having documents authorizing him to enter the CSFR, is obliged to arrange the foreigner's return transport abroad.
- (2) The transport operator shall not have a duty under subsection 1 if the Federal Ministry of the Interior enabled a foreigner to enter the CSFR, or if a visa granted to the foreigner abroad was cancelled by the

Federal Ministry of the Interior prior to the foreigner entering the CSFR.

Section 26

The travel costs of a foreigner to whom entry into the CSFR was denied, or who is being expelled, shall be borne by the foreigner. If the foreigner cannot pay for the travel costs, they shall be borne by:

- (a) the transport operator obliged to provide for the transportation of that foreigner under section 25;
- (b) a person who (or the entity which) employed the foreigner without authorization in the CSFR;
- (c) and in other cases, the Federal Ministry of the Interior.

PART SIX - OFFENCES

Section 27

(1) A person commits an offence under this Act if he:

- (a) stays or resides in the CSFR without authorization;
- (b) thwarts a decision concerning the prohibition of residence or expulsion from being carried out;
- (c) makes unauthorized changes, or arranges for unauthorized changes to be made, either in the documents authorizing that person's entry into the CSFR or in the residence permit document;
- (d) violates another duty specified by this Act if his actions impede the state administration in the carrying out of its work.

(2) A penalty of up to 10,000 crowns may be imposed for an offence under subsection 1 (a) and (b), a penalty of up to 5,000 crowns for an offence under subsection 1 (c), and a penalty of up to 1,000 crowns for an offence under subsection 1 (d).

(3) The penalties shall be revenue of the CSFR state budget.

Section 28

(1) Offences under this Act shall be dealt with by the appropriate office of the Federal Ministry of the Interior according to the place of the foreigner's long-term or permanent residence, and in other cases by the office of the Federal Ministry of the Interior appropriate to the place where that offence was committed.

(2) Penalties for offences may be imposed and collected in exchange for a receipt by the offices referred to in subsection 1 (d).

(3) Penalties shall be exacted by the financial authorities in the Czech Republic and by the tax authorities in the Slovak Republic.

Section 29

The general legislative acts concerning offences (Note 8) shall apply to offences and the investigation of them under this Act.

PART SEVEN - JOINT, TRANSITORY AND FINAL PROVISIONS

Section 30

(1) Any foreigner over 15 years of age who has not been deprived of his capacity to perform juridical acts, or whose capacity to perform juridical acts has not been restricted by a court decision, for the purposes of this Act, shall have capacity to perform juridical acts.

(2) A statutory representative shall act on behalf of a foreigner under 15 years of age, or a foreigner who has been deprived of his capacity to perform juridical acts, or whose capacity to perform juridical acts has been restricted.

Section 31

The Federal Ministry of Foreign Affairs shall exercise the powers of the Federal Ministry of the Interior in matters relating to the privileges and immunities enjoyed by foreigners under this Act or international law.

Section 32

(1) Unless this Act stipulates otherwise, the general legislative acts on administrative proceedings (Note 2) shall apply to proceedings under this Act.

(2) A decision made by the Federal Ministry of the Interior under this Act is not reviewable by a court, with the exception of final and valid decisions on the prohibition of residence (section 14), provided that in the respective case all appropriate remedial measures have been exhausted in the administrative proceedings.

Section 33

(1) Applications under sections 5, 8 and 12 shall be submitted on an official printed form. The standard design for the printed forms shall be determined by the Federal Ministry of the Interior after consultations with the Federal Ministry of Foreign Affairs.

(2) A foreigner shall report his residence under section 19 and his use of a motor vehicle under section 22(d) on official printed forms. The standard design for those printed forms shall be determined by the Federal Ministry of the Interior.

(3) The Federal Ministry of the Interior shall also determine the standard design for the residence permit document.

Section 34

Visas and long-term or permanent residence permits granted under the legislative acts in force until now shall be considered as having been granted under this Act.

Section 35

The following are hereby repealed:

1. Act on Foreigners' Stay and Residence in the Czechoslovak Socialist Republic (No. 68/1965 Coll.);

2. Decree of the Ministry of the Interior giving detailed legal provisions on foreigners' stay and residence in the Czechoslovak Socialist Republic (No. 65/1965 Coll.);
3. Decree of the Federal Ministry of the Interior re-introducing the visa requirement with France (No. 2/1949 Coll.).

Section 36

This Act shall come into effect on 1 October 1992.

Notes

Note 1: Act on Refugees (No. 498/1990 Coll.)

Note 2: Administrative Procedure Code (No. 71/1967 Coll.)

Note 3: Sections 189 to 192 and section 195 of penal Code

Note 4: Section 2 (2) of Employment Act (No. 1/1991 Coll.)

Note 5: Section 41(2) of Penal Code

Note 6: Act of the Czech National Council on Protection Against Alcoholism and Other Drug Addictions (No. 37/1989 Coll.); Act of the Slovak National Council on Protection against Alcoholism and Other Drug Addictions (No. 46/1989 Coll.); Government Order of the Czech Socialist Republic on Poisons and Other Substances Harmful to Health (No. 192/1988 Coll. as subsequently amended); Government Order of the Slovak Socialist Republic on Poisons and Other Substances Harmful to Health (No. 206/1988 Coll. as subsequently amended)

Note 7: Act on Reporting and Recording Citizens' Residence or Stay (No. 135/1982 Coll.); Ordinance of the Federal Ministry of the Interior on the Implementation of the Act on Reporting and Recording Citizens' Residence or Stay (No. 146/1982 Coll.)

Note 8: Act of the Czech National Council on Offences (No. 200/1990 Coll.); Act of the Slovak National Council on Offences (No. 372/1990 Coll.); Act No. 71/1967 Coll.; Act No. 385/1990 Coll.

[1] The Czech and Slovak Federal Republic is hereafter referred to as the CSFR. As of 1 January 1993 the CSFR was succeeded by the Czech Republic and the Slovak Republic. Wherever this Act refers to the CSFR, it should be understood to mean either the Czech Republic or the Slovak Republic. Similarly "Czechoslovak" means either "Czech" or "Slovak"

[2] "His" also refers to "her" and "he" to "she" throughout this translation.

[3] Commonly known amongst English-speaking expatriates as "the green book".

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