

# Table of Contents

The Authors	3
List of Abbreviations	13
List of National Legislation	15
Selected European Legislation	21
Preface	33
General Introduction	35
§1. IMMIGRATION HISTORY AND STATISTICAL INFORMATION	35
§2. OVERVIEW OF NATIONAL LEGAL INSTRUMENTS	47
I. Historical Overview	47
II. Current Applicable Legislation	50
III. Administrative and Judicial Authorities	53
§3. OVERVIEW OF THE APPLICABLE INTERNATIONAL LEGAL INSTRUMENTS	57
Selected Bibliography	63
Part I. Border Control and Entrance	69
Chapter 1. Organization of Border Control	69
Chapter 2. Right to Enter the Country	78
§1. CONDITIONS FOR THE RIGHT TO ENTER	78
§2. ADMINISTRATIVE PROCEDURES AND DOCUMENTS	80

## Table of Contents

Chapter 3. Refusal of Entry	83
Part II. Right of Residence: General Provisions	87
Chapter 1. Short Stay	90
§1. STAY UPON SHORT-TERM VISA	90
§2. STAY WITHOUT VISA	91
§3. STAY UPON EXIT VISA	91
Chapter 2. Long-Term Visa	92
§1. CONDITIONS FOR LONG-TERM VISA	92
§2. ADMINISTRATIVE PROCEDURES AND DOCUMENTS	92
§3. LEGAL POSITION	94
§4. POSITION OF FAMILY MEMBERS	95
Chapter 3. Long-Term Residence Permit	96
§1. CONDITIONS FOR LONG-TERM RESIDENCE PERMIT	96
§2. ADMINISTRATIVE PROCEDURES AND DOCUMENTS	98
§3. LEGAL POSITION	99
§4. POSITION OF FAMILY MEMBERS	100
Chapter 4. Permanent Residence	103
§1. CONDITIONS FOR PERMANENT RESIDENCE PERMIT	103
§2. ADMINISTRATIVE PROCEDURES AND DOCUMENTS	106
§3. LEGAL POSITION	108
§4. POSITION OF FAMILY MEMBERS	109
Part III. Right of Residence for Specific Categories of Persons	111

## Table of Contents

Chapter 1. Nationals with Preferential Treatment	111
§1. EU NATIONALS, FAMILY MEMBERS OF EU NATIONALS AND FAMILY MEMBERS OF CITIZENS OF THE CZECH REPUBLIC	111
I. Short Stay	112
II. Temporary Residence	112
A. Conditions for Temporary Residence	112
B. Administrative Procedures and Documents	113
C. Legal Position	114
D. Position of Family Members	114
III. Permanent Residence	115
A. Conditions for Permanent Residence	115
B. Administrative Procedures and Documents	116
C. Legal Position	116
D. Position of Family Members	117
§2. OTHER NATIONALS WITH PREFERENTIAL TREATMENT	118
Chapter 2. Students	121
Chapter 3. Researchers	125
Chapter 4. Labour and Economic Migration	128
§1. LABOUR EMPLOYMENT	128
§2. SEASONAL WORKERS AND TEMPORARY WORKERS	128
§3. INDEPENDENT ECONOMIC ACTIVITIES	128
Chapter 5. Humanitarian Reasons	129
§1. HUMANITARIAN GROUNDS	129
§2. UNACCOMPANIED MINOR CHILDREN	130
Chapter 6. Asylum	132
§1. CONDITIONS	132
I. Refugee Status	134
II. Subsidiary Protection Status	135
III. Temporary Protection Status	137
IV. Other Forms of Asylum	138
A. Constitutional Right to Asylum	138
B. Asylum for Humanitarian Reasons	139

## Table of Contents

C. Prohibition of Expulsion	140
§2. PROCEDURES	141
I. Asylum Procedure	141
II. Review of the Decision Rejecting the Application for Asylum	144
III. Unaccompanied Minor Asylum Claimants	146
§3. LEGAL POSITION	147
§4. POSITION OF FAMILY MEMBERS	149
Part IV. Loss of the Right of Residence	151
Chapter 1. Conditions under Which the Right of Residence Might Be Lost	151
§1. THIRD-COUNTRY NATIONALS	151
I. Grounds for Annulment of Residence Permits in General	152
II. Specific Reasons for Annulment of Residence Permits in More Detail	158
A. Conviction of the Foreigner of a Crime	158
B. Conditions for Granting Visa/Residence Permit Are No Longer Fulfilled	159
C. Not Fulfilling the Purpose for Which Visa was Issued	161
D. Failure to Apply for a Visa for a New-born Child	162
E. Expulsion Decision or Deportation Penalty Imposed by Another EU State	163
F. The Foreigner being a Threat to the Security of the Czech Republic, Its Public Order; or Suffering from Serious Illness, Thus Threatening Public Health	164
G. Reasons for Termination of Validity of Residence Permits Ex lege	165
§2. EU NATIONALS, EU FAMILY MEMBERS, FAMILY MEMBERS OF CZECH NATIONALS	165
I. EU Nationals	166
II. EU Family Members and Family Members of Czech Nationals	167
III. Termination of Residence Permits of EU Nationals and Family Members of EU or Czech Nationals	167
Chapter 2. Legal and Administrative Procedures	168
§1. ANNULMENT OF SHORT-TERM VISAS	168
§2. ANNULMENT OF OTHER TYPES OF RESIDENCE PERMITS	169

## Table of Contents

§3. JUDICIAL REVIEW	170
Part V. Sanctions	173
Chapter 1. Sanctions	173
§1. ADMINISTRATIVE SANCTIONS	173
I. Notions	173
II. Sanctions against Attempt to Illegally Enter the Territory	176
A. Refusal of Entry to the Territory for TCNs	176
B. Refusal of Entry to the Territory for EU Nationals and Family Members of EU or Czech Nationals	176
C. Consequences of Entry-Refusal	177
D. Other Sanctions	177
III. Sanctions against Illegal Stay or Residence	178
§2. PENAL SANCTIONS	179
I. Penal Sanctions for Attempt to Illegally Enter the Territory	179
A. Penal Sanctions Related to Illegal Crossing of Borders Imposed on Foreigners	179
B. Penal Sanctions Related to Illegal Crossing of Borders Imposed on other Persons	180
II. Penal Sanctions for Illegal Stay and Residence	180
A. Frustration of Decision on Expulsion by Prolonged Illegal Stay	181
B. Sanction of Criminal Deportation	182
C. Assisting to Reside in the Czech Republic for Unjustified Financial or other Gain	186
§3. DETENTION	186
I. Detention of Irregular Migrants Pursuant to the ALA	187
A. Legal Grounds for the Detention Order	187
B. Detention for the Purpose of Administrative Expulsion	187
C. Detention for the Purpose of Departure from the Territory	189
D. Detention for the Purpose of Readmission or Transfer	190
E. Detention of EU Nationals, Their Family Members and Family Members of Czech Nationals	191
F. Detention of Minors and Families	191
II. Detention of Irregular Migrants Pursuant to ASA	193
III. Procedures	194
§4. EXPULSION AND REMOVAL	195
I. In the Case of Illegal Entry	195
II. In the Case of Illegal Stay or Residence	195
A. Notions	195
B. Expulsion for Foreigners Staying on a Short-Term Basis	197

## Table of Contents

C. Expulsion of EU Nationals and Their Family Members Staying in the Country Temporarily	199
D. Expulsion of Those Staying in the Country upon Long-Term Permit for the Purpose of Family Reunification, Studies or Research, and Residents of a Member State of the EU	199
E. Conditions under Which Expulsion May Not Be Imposed on Foreigners Staying in the Country on a Short-Term Basis	200
F. Expulsion of Foreigners with Permanent Stay	201
G. Expulsion of EU Nationals, Their Family Members and Family Members of Czech Nationals with a Permanent Residence Permit	201
III. Impediments to Expulsion	202
IV. Stay of Execution of the Expulsion Measure	202
Chapter 2. Sanctions against Persons Helping Illegal Immigrants or Residents	204
§1. HUMAN SMUGGLING	204
§2. HUMAN TRAFFICKING	206
Part VI. Legal Remedies and Procedural Safeguards	209
Chapter 1. Legal Remedies in Case of Refusal of Right to Enter, Stay or Reside	209
§1. GENERAL NOTIONS	209
§2. LEGAL REMEDIES IN CASE OF REFUSAL OF THE RIGHT TO ENTER THE TERRITORY	215
§3. LEGAL REMEDIES IN CASE OF ADMINISTRATIVE DECISIONS ON THE RIGHT TO RESIDE	217
§4. LEGAL REMEDIES AGAINST EXPULSION MEASURES	220
I. Duty to Leave the Territory (§50a)	220
II. Administrative Expulsion (§119)	221
§5. PROCEDURAL SAFEGUARDS	224
I. Information Duties	224
II. Legal Aid	227
III. Language	228
IV. Access to Filing an Application for a Visa or Permit at Embassy	229
V. Others	230

## Table of Contents

Chapter 2. Legal Remedies in Case of Detention	232
Part VII. Access to the Labour Market	235
Chapter 1. Overview of Applicable Legislation	235
Chapter 2. Conditions for Entitlement to Work in the Country As an Employed Person	238
§1. GENERAL CONDITIONS	238
§2. ADMINISTRATIVE RULES AND PROCEDURES	240
I. Stay for Less than Three Months	241
II. Stay for More than Three Months	241
§3. CONDITIONS FOR SPECIAL CATEGORIES OF WORKERS	246
I. Workers Who Need Work Permit but Are Not Subjected to Labour Market Test	246
II. Foreigners Who Do Not Need Work Permits	247
III. Highly skilled Workers	248
IV. Green Cards	250
V. Blue Cards	252
Chapter 3. Sanctions against Illegal Participation in the Labour Market	255
§1. SANCTIONS AGAINST EMPLOYERS	256
§2. SANCTIONS AGAINST WORKERS	260
Chapter 4. Legal Remedies and Procedural Safeguards	263
Part VIII. Access to Self-employed Activities	269
Chapter 1. Overview of Applicable Legislation	269
Chapter 2. Conditions for Entitlement to Work in the Country As a Self-employed	272
§1. GENERAL CONDITIONS	272
§2. ADMINISTRATIVE RULES AND PROCEDURES	274

**Table of Contents**

Chapter 3. Sanctions against Illegal Exercise of Self-employment	277
Chapter 4. Legal Remedies and Procedural Safeguards	280
Index	281