

Project

Fast Track

The project was prepared by the Ministry of Industry and Trade in cooperation with the Ministry of the Interior, the Ministry of Labour and Social Affairs, and the Ministry of Foreign Affairs, with the aim of addressing the current needs of employers – international firms investing in the Czech Republic.

Project name

Fast Track Project (Accelerated procedure for intra-corporate transfers and localisation of foreign investors' employees and statutory bodies)

Responsible authority

Ministry of Industry and Trade of the Czech Republic

Co-responsible authorities

Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Labour and Social Affairs

Project characteristics

The project should **achieve time savings in the process of migration of foreign investors' employees and statutory bodies** in their organisation units or companies linked by capital, which are based in the Czech Republic. The project is designed only for the **established foreign investors running their businesses in the Czech Republic for at least two years.**

Time savings will be achieved mainly through

- **Shortening the time for delivery of applications** for employee cards and visas for a stay of over 90 days (long-stay visa), which are submitted by foreigners included in the project **within the territory of the Czech Republic;** and
- **Preferential processing of those applications** and of applications for employment permit by competent central administration authorities.

Justification of project implementation

1) It is in the interest of the Czech Republic to support foreign investors who are beneficial to its economic development, labour market and international competitiveness.

2) Major foreign investors need to ensure the entry of their key employees and statutory bodies in the Czech Republic in less than the statutory deadline for issuing work permits, employee cards or long-stay visa.

Project objectives

Streamline the processing of applications for employment permit, employee card or long-stay visa filed by foreigners wishing to work in the positions of managers or specialists or in the positions of statutory bodies included in the project so that **the total duration of the migration procedure, i.e. the time from filing an application for residence permit by a foreigner to the decision on the application by the Ministry of the Interior, does not exceed 30 consecutive calendar days.**

Benefits of the project

- 1) **Cost reduction by firms** in relation to their expansion in the Czech Republic.
- 2) **Gaining a competitive edge for the Czech Republic** over other countries in attracting investors, transfer of know-how and building new positions on the market (headquarters).
- 3) **Preliminary verification of the principles of newly prepared EU legislation** in the area of economic migration – intra-corporate transfers of employees.

Project position

The project **was approved by the *Coordinating Body for the Protection of the Czech Republic's State Borders and Migration***¹ (hereinafter referred to as “Coordinating Body”) and, subsequently, submitted to the Government of the Czech Republic for its information. On serious grounds (in particular, if the numbers of applications for employment permit, employment card or long-stay visa and the related workload of administrative authorities considerably increase) the Coordinating Body can **suspend, terminate or reconfigure the project** at any time at the request of the responsible authority or any of the co-responsible authorities.

The project implementation **fully complies with applicable regulations**, including:

- Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Czech Republic and on amendments to certain other acts, as amended;
- Act No. 435/2004 Coll., on Employment (Employment Act), as amended;
- Act No. 262/2006 Coll., Labour Code, as amended;
- Act No. 90/2012 Coll., on Commercial Companies and Cooperatives (Corporations Act), as amended.

The project objective complies with strategic documents adopted by the Government of the Czech Republic² and with EU legislation being prepared.³

Activities of the central administration authorities in the project are regulated by internal methodical guidelines of the involved ministries.

There is no legal right to the inclusion of an application into the project.

¹ An inter-ministerial body on the level of deputy-ministers in charge of immigration and the protection of state borders.

² *International Competitiveness Strategy* (the project card Skilled Worker Migration Policy) as approved by the Government of the Czech Republic by its Resolution No. 713 of 27 Sep 2011; *The New System of Economic Migration* – a basic strategic document of the government migration policy (Resolution of Government of the Czech Republic No. 48 of 19 January 2011); *The Czech Republic's Competitiveness Strategy Framework* by NERV.

³ Proposal of a directive on conditions of entry and residence in the framework of an intra-corporate transfer.

Financial costs

The project will **have no effect on public budgets**. It will require no new human resources of central administration authorities.

The costs of accelerated delivery of applications for employee card or long-stay visa from foreign countries to the territory of the Czech Republic will be paid exclusively by the applicant or foreign investor.

Project commencement

Commencement: 1 February 2012

Project evaluation

On an annual basis. The project will be evaluated by the Ministry of Industry and Trade in cooperation with the other ministries.

Definitions

For the purposes of this project the following words will have the following meanings:

“Foreign investor” – a commercial company **based outside the territory of the EU/EEA or Switzerland**, which has its **organisation unit** in the Czech Republic or which is **linked by capital with a commercial company based in the Czech Republic** (capital ties of the following type: parent company – subsidiary, concern, holding or trust), through which it undertakes its investment.

This project rules pertaining to foreign investor apply accordingly to **commercial companies based in the Czech Republic**, which have their **organisation units outside the territory of the EU/EEA or Switzerland** or which are **linked by capital with commercial companies based outside the territory of the EU/EEA or Switzerland**.

“Manager” – a person working in a leading position, who principally directs the management of the company, department, section or other unit of that company, supervises other employees who carry out supervision, professional checks or management checks, including the powers to recruit or dismiss employees or to recommend their recruitment, dismissal or other personnel measures.

“Specialist” – a person possessing specific knowledge and skills essential for the activities, technologies or management of the company, taking into account not only the knowledge specific to this company but also of the high level of achieved qualifications of that person referring to a type of work or trade requiring specific technical knowledge.

“Statutory body” – a person authorised to accomplish legal acts of a legal entity based on memorandum of incorporation, foundation charter or by virtue of law (e.g. executive manager).

Target group of the project

So-called third country nationals (i.e. non-EU/EEA and non-Switzerland nationals) who are delegated by a foreign investor to the Czech Republic for a **period of time in excess of 90 days** for the purpose of work in the positions of **managers, specialists and statutory bodies** in the foreign investor's organisation units or companies linked by capital, which are based in the Czech Republic.

The project target group also includes **third country nationals** who are delegated to the Czech Republic to work in the positions of **managers, specialists and statutory bodies for a period of time in excess of 90 days** in a commercial company **based in the Czech Republic**, namely by that commercial company's **organisation unit** or a **company linked by capital with a commercial company based outside the territory of the EU/EEA or Switzerland**, with which they have employment or commercial relationship for the duration of their delegation.

Overview of potential migration ways of the project participants to the Czech Republic

At request of a commercial company based in the Czech Republic, intra-corporate transfers and localisations, i.e. **the positions of managers or specialists or the positions of statutory bodies**, which the commercial company intends to staff with foreigners, namely in one of the following four ways, can be included in the project .

The basic precondition for a foreigner's participation in the project is **existence of an employment or commercial relationship** (executed according to foreign regulations) **between the foreigner and a foreign investor** for the duration of his/her delegation.

1) Intra-corporate transfer of employee

Delegation of a foreigner by a foreign investor to the Czech Republic to perform tasks arising from a contract concluded between the investor and a commercial company based in the Czech Republic. **The foreigner shall have an employment relationship with the foreign investor, not with the domestic commercial company, for the duration of delegation.**

Type of document to be issued to the foreigner:

Employment permit & employment card

The legal mode of the intra-corporate transfer:

Article 95 of the Employment Act and Article 42g Section 3 of the Residence of Foreign Nationals in the Czech Republic Act (the position should be outside the *central registry of job vacancies to which employment-card holders can be hired*)

2) Intra-corporate transfer of statutory bodies

Delegation of a foreigner by a foreign investor to the Czech Republic to perform the position of statutory body in a commercial company based in the Czech

Republic. **The foreigner does not conclude with the domestic commercial company the employment relationship⁴. Only the tasks arising from the position of statutory body in the Czech Republic will be performed.**

Type of document to be issued to the foreigner:

Long-stay visa for business purposes

The legal mode of the intra-corporate transfer:

Article 30 et seq. of the Residence of Foreign Nationals in the Czech Republic Act

3) Localisation of employee

Delegation of a foreigner by a foreign investor to the Czech Republic to work on a temporary basis for a commercial company based in the Czech Republic. **The foreigner shall have an employment relationship with the domestic commercial company.**

Type of document to be issued to the foreigner:

Employment card

The legal mode of localisation:

Article 42g Section 2 of the Residence of Foreign Nationals in the Czech Republic Act (the position is included in the *central registry of job vacancies to which employment-card holders can be hired*).

4) Localisation of statutory body

Delegation of a foreigner by a foreign investor to the Czech Republic to perform the tasks for the commercial company arising from its scope of business, providing that the foreigner is also the person who will be the statutory body of that commercial company based in the Czech Republic. **The foreigner performs both the tasks arising from his/her position of statutory body in the Czech Republic and the tasks arising from the scope of business of the commercial company as registered in the Companies Registry. The foreigner shall not have an employment relationship with the domestic commercial company.**

Type of document to be issued to the foreigner:

Employment permit & employment card

The legal mode of localisation:

Article 89 Section 2 of the Employment Act and Article 42g Section 3 of the Residence of Foreign Nationals in the Czech Republic Act (the position should be outside the *central registry of job vacancies to which employment-card holders can be hired*)

⁴ Typically, the foreigner's relation to the domestic company will be based on **executive service agreement** according to section 59 et seq. of the Corporations act.

Criteria for including a company into the project

The application will be included in the project only in case of **manager or specialist positions or statutory body positions in a commercial company based in the Czech Republic**, which cumulatively meets the following conditions:

- 1) The company has been doing business within the territory of the Czech Republic for at least two years and is an income tax payer in the Czech Republic pursuant to Act No 586/92 Coll., on Income Taxes;
- 2) The company's obligations to the Czech Republic have been settled⁵;
- 3) The company is registered in the Czech Republic as a payer of health and social insurance;
- 4) For two years prior to applying for including a position into the project, the company was not imposed more frequently than once a year a fine higher than CZK 100,000 for breaching its obligation to contribute to the health insurance system, or for its legislation-based obligations monitored by the Public Employment Service of the Czech Republic, the State Labour Inspection Office or District Labour Inspectorates;
- 5) The company meets the following criteria stipulated by type of business and by type of migration – an intra-corporate transfer or localisation of employee or statutory body:

⁵ See Article 46 of Act No. 455/1991 Coll., the Trade Licensing Act: the Company has no tax arrears in respect of its business (the document to be issued by the relevant local tax office; the document must not be older than 6 months), the Company has no arrears in social security insurance contributions and in the state employment policy contributions (the document to be issued by the Czech Social Security Administration Authority (ČSSZ); the document must not be older than 6 months), the Company has no arrears in public health insurance contributions (the documents to be issued by the relevant insurers; the document must not be older than 6 months).

PRODUCTION UNDERTAKING	Intra-corporate transfer / localisation of employee	Intra-corporate transfer / localisation of statutory body
The minimum number of employees in the Czech Republic as of the application date	250, of which at most 10% are project participants	50
The minimum number of employees employed globally by all of the foreign investor's companies linked by capital	1 000	
The minimum investment in the Czech Republic in the non-current tangible fixed assets during the company's operation in the Czech Republic as of the last day of the last fiscal/calendar year	CZK 50 million	CZK 50 million
The minimum annual turnover of the company in the Czech Republic according to its final statements for the past fiscal year	CZK 250 million	
The minimum amount of tax paid in the Czech republic for the past fiscal period on direct and indirect taxes	CZK 1 million	

UNDERTAKING OPERATING IN SERVICES	Intra-corporate transfer / localisation of employee	Intra-corporate transfer / localisation of statutory body
The minimum number of employees in the Czech Republic as of the application date	250, of which at most 10% are project participants	50
The minimum number of employees employed globally by all of the foreign investor's companies linked by capital	1,000	
The minimum investment in the Czech Republic in the non-current tangible and intangible fixed assets during the company's operation in the Czech Republic as of the last day of the last fiscal/calendar year	CZK 5 million	
The minimum amount of labour cost paid in the Czech Republic for the past two years	CZK 175 million	CZK 35 million

The minimum annual turnover of the company in the Czech Republic according to its financial statements for the past fiscal year	CZK 250 million	
The minimum amount of tax paid in the Czech republic for the past fiscal period on direct and indirect taxes	CZK 1 million	

COMPANY OF REGIONAL IMPORTANCE	Intra-corporate transfer / localisation of employee	Intra-corporate transfer / localisation of statutory body
The minimum number of employees in the Czech Republic as of the application date	150	Transfer/localisation is not possible
The minimum amount of labour cost paid in the Czech Republic for the past two years	CZK 130 million	

Inclusion of companies of regional importance (production companies, IT companies and shared-services centres) into the project is decided by the Ministry of Industry and Trade on the basis of CzechInvest's positive opinion.

Involvement of project participants

1) The commercial company based in the Czech Republic to which a foreigner is delegated by a foreign investor within intra-corporate transfer or localisation:

- announces to the Public Employment Service the vacancy to be staffed with a foreigner (in the event of localisation of employee or statutory body) or discusses with the Public Employment Service the conditions of delegating foreigner to the Czech Republic (in the event of intra-corporate transfer of employee);
- files with the Public Employment Service of the Czech Republic an application for employment based on the foreigner's power of attorney (in the event of intra-corporate transfer of employee or localisation of statutory body);
- submits the application for inclusion of the job vacancy or position of statutory body into the project together with all necessary requirements.

2) The foreigner who is subject to intra-corporate transfer or localisation:

- submits with the locally competent embassy for employment card or long-stay visa for business purposes, including all legal formalities required
- in case of long-stay visa being issued for the purpose of collecting employee card the foreigner comes within three working days from his/her arrival in the Czech Republic to the Ministry of the Interior to provide biometric data, which

are necessary for the issue of his/her employment card; in case of long-stay visa the foreigner comes within three working days from his/her arrival to the Czech Republic to the police to fulfill reporting obligations.⁶

Involvement of the responsible authority and co-responsible authorities

1) Ministry of Industry and Trade

- evaluates the application for inclusion of the job vacancy or position of statutory body into the project and informs the respective commercial company of the result;
- informs the co-responsible authorities that a new application has been included into the project;⁷
- provides for promotion of the project.

2) Ministry of Foreign Affairs, or the competent Embassy of the Czech Republic

- receives the foreigner's application for employment card or long-stay visa for business purposes;
- informs the applicant about the possibility to use accelerated delivery of the application to the Czech Republic via a prepaid delivery service, this service will be paid by the applicant / foreign investor;
- informs the successful applicant about the positive decision of the Ministry of the Interior concerning the application and grants the long-stay visa for business purposes to collect employment card or stamps the long-stay visa for business purposes in the foreigner's passport.

3) Ministry of the Interior – Department of Asylum and Migration Policy

- within 30 calendar days from the date of submitting an application to the embassy
 - a) decides whether or not to grant long-stay visa for business purposes and instructs the embassy to stamp the long-stay visa for business purposes in the foreigner's passport; or
 - b) decides whether or not the conditions have been met to issue the employment card and eventually gives an instruction to the embassy to issue long-stay visa for business purposes to collect the employment card;

however, providing only that the application filed by the foreigner includes all details as requested by law and is physically delivered to the Ministry of the Interior not later than on the 20th day from submitting;

⁶ Article 93 of the Residence of Foreign Nationals in the Czech Republic Act.

⁷ If the case concerns employee localisation, the MIT also informs co-responsible authorities about the date on which the respective vacancy was reported to the Public Employment Service, because after 30 days from reporting by employer the vacancy should be included in the *central registry of vacancies to which employment-card holders can be hired*, which is a precondition for issuing employment card.

- issues a certificate of meeting conditions for employment card to the foreigner who was granted long-stay visa to collect his/her employment card and who appeared to provide his/her biometric data concurrently;
- issues to the foreigner his/her employment card within 15 calendar days from provision of his/her biometric data.

4) Ministry of Labour and Social Affairs, or Public Employment Service of the Czech Republic

- evaluates compliance with the condition that the commercial company was not repeatedly fined for breaching its legislation-based obligations monitored by the PES, SLIO or DLI, and informs the Ministry of Industry and Trade about the result;
- in the event of intra-corporate transfer of employee or localisation of statutory body decides whether or not the employment permit will be issued.

Publicity:

The project will be promoted via the Ministry of Industry and Trade website.

The Ministry of Industry and Trade, in cooperation with CzechInvest Agency, will provide for distribution of information materials about the project to foreign investors.

Annexes:

- 1) Process of the intra-corporate transfer of employee or localisation of statutory body according to the project
- 2) Process of localisation of employee according to the project
- 3) Process of intra-corporate transfer of statutory body according to the project
- 4) Application for including intra-corporate transfer or localisation of employee into the project
- 5) Application for including intra-corporate transfer or localisation of statutory body into the project
- 6) Specimen of the “Foreign Investor’s Declaration of Delegating Foreigner to the Czech Republic”⁸

⁸ This standardised form is designed for three types of the accelerated migration procedure: localisation of employee, localisation of executive, and intra-corporate transfer of employee; it replaces the previously used *Employer’s Declaration of Delegating Foreigner to the Czech Republic* and the *Foreign Employer’s Declaration of Employee Localisation*.