

# **Project**

## ***Fast Track***

Updated on 19 October 2017

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

### Project name

*Fast Track (Accelerated procedure for internally transferred and localised employees and statutory representatives of foreign investors)*

### Administrator

Ministry of Industry and Trade

### Co-administrators

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

### Project characteristics

The essence of the project is **achievement of time savings in connection with the process of migration of foreign investors' employees and statutory representatives** to their organisational units or capital-related commercial companies located in the Czech Republic. The project is intended exclusively to meet the needs of already **established foreign investors that have been operating in the Czech Republic for at least two years.**

Time savings are achieved primarily by

- **reduction of the period for delivering applications** for employee cards and visas for stays longer than 90 days submitted by foreigners included in the project **on the territory of the Czech Republic**, and
- **preferential processing** of such **applications** and applications for issuance of work permits to the factually relevant bodies of the state administration.

### Reasons for implementation of the project

- 1) **The interest of the Czech Republic in supporting foreign investors that are beneficial for the country's economic development, labour market and international competitiveness.**
- 2) **The necessity of significant foreign investors to ensure the entry of their key employees and statutory representatives into the Czech Republic within a shorter period of time than the legally mandated period for issuing work permits, employee cards and visas for stays longer than 90 days.**

### Project objectives

**To increase the efficiency of the processing** of applications for **work permits, internally transferred employee cards, employee cards and visas for stays longer than 90 days** submitted by foreigners who intend to work in management and

specialist positions or in statutory-representative positions included in the project **so that the entire period of the migration procedure, i.e. the period from the foreigner's submission of an application for a residence permit until issuance of a ruling on such application by the Ministry of the Interior does not exceed 30 consecutive calendar days.**

### **Project benefits**

- 1) **Reduction of companies' costs** associated with their expansion in the Czech Republic.
- 2) **Acquisition of a competitive advantage of the Czech Republic** in comparison with other countries in terms of gaining investors, transfer of know-how and building new positions on the market (headquarters).
- 3) **Preliminary verification of the principles of newly drafted EU legislation** in the area of economic migration – internal transfer of employees.

### **Project grounding**

The project was **approved by the *Coordination Body for Protection of the National Borders and Migration***<sup>1</sup> (hereinafter referred to as the “Coordination Body”) and subsequently submitted to the Government of the Czech Republic for information. Based on serious reasons (especially in the case of significant growth in the number of applications for work permits, internally transferred employee cards, employee cards, blue cards or visas for stays longer than 90 days and the related excessive workload on the administrative bodies), the Coordinating Body can, at the request of the administrator or any of the co-administrators, **suspend or terminate the programme or change its parameters at any time.**

Implementation of the project is ensured **fully in accordance with the legal regulations in force**, particularly

- Act No. 326/1999 Coll., on Residence of Foreigner Nationals on the Territory of the Czech Republic and on the Amendment of Certain Acts, as amended
- Act No. 435/2004 Coll., on Employment, as amended
- Act No. 262/2006 Coll., the Labour Code, as amended
- Act No. 90/2012 Coll., on Commercial Corporations and Cooperatives, as amended

---

<sup>1</sup> Interdepartmental body at the level of deputy ministers within whose purview fall the issues of immigration and border security.

The objective of the project is in accordance with the strategic documents adopted by the Government of the Czech Republic<sup>2</sup> and with the European Union legislation in force.<sup>3</sup>

The activities of bodies of the state administration within this project are governed by the internal methodological guidelines of the individual participating ministries.

**There is no legal entitlement to participation in the project.**

### **Financial costs**

The project has **no impact on public budgets**. It does not require an increase of the personnel capacities of bodies of the state administration.

The costs connected with the accelerated delivery of applications for issuance of internally transferred employee cards, employee cards, blue cards or visas for stays longer than 90 days from abroad to the Czech Republic are borne exclusively by the applicant or foreign investor.

### **Project start date**

Start date: 1 February 2012

### **Assessment of the project**

Annually. Assessment of the project is carried out by the Ministry of Industry and Trade in cooperation with other departments.

### **Definition of certain terms**

For the purposes of the project, the following definitions of terms are used:

**“Foreign investor”** – a foreign commercial company that has an **organisational unit** in the Czech Republic or is **related in terms of capital to a commercial company based in the Czech Republic** (relationship of the type parent company – subsidiary, concern, holding company or trust), via which the foreign investor is implementing its investment.<sup>4</sup>

The rules of this project pertaining to foreign investors similarly relate to **commercial companies based in the Czech Republic** that have an **organisational unit outside**

<sup>2</sup> *International Competitiveness Strategy* (Skilled Worker Migration Policy project card) approved by the Government of the Czech Republic by means of Resolution No. 713 of 27 September 2011; *New Economic Migration System* – basic strategic document of the state migration policy (Resolution of the Government of the Czech Republic No. 48 of 19 January 2011); *Competitiveness Strategy Framework of the Czech Republic* from NERV.

<sup>3</sup> Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the entry and residence of third-country nationals in the framework of an of intra-corporate transfer.

<sup>4</sup> Of course, the Fast Track project cannot be used for internal transfer of managers, specialists and statutory representatives within the EU/EEA or between the Czech Republic and Switzerland.

**of the Czech Republic or are related in terms of capital to a commercial company based outside of the Czech Republic.**

**“Manager”** – a person working in a management position who primarily conducts the management of the company, a division, department or other unit of such company, performs supervision of other employees performing supervision or professional or managing audits, including the authority to hire and dismiss employees or recommend the recruitment and dismissal of employees and other personnel measures.

**“Specialist”** – a person who has specific knowledge and skills that are of fundamental importance for the operation, technology or management of the company, where not only knowledge specific for the given company is taken into account, but also such person’s high level of achieved qualifications corresponding to the type of work or business which requires specific technical knowledge.

**“Statutory representative”** – a person who is authorised to conduct legal acts of a legal entity on the basis of an agreement on the establishment of such legal entity, memorandum of association or the law (e.g. an executive director).

#### **Target group of the project**

**Citizens of so-called third countries** (i.e. not citizens of EU/EEA member countries or Switzerland) sent by a foreign investor to the Czech Republic **for a period longer than 90 days** for the purpose of performing work in the position of **manager, specialist or statutory representative** in an organisational unit of such investor or a capital-related company based in the Czech Republic.

The project’s target group also includes **citizens of third countries** who are sent, for the purpose of performing work in the position of **manager, specialist or statutory representative for a period longer than 90 days**, to a commercial company **based in the Czech Republic** by an **organisational unit** of such company or a **capital-related commercial company based outside of the Czech Republic**, with which they have an employment or business relationship during the time of their assignment.

#### **Overview of the possible means of migration of project participants to the Czech Republic**

At the request of a commercial company based in the Czech Republic, internal transfers and localisations, i.e. **positions of managers, specialists or statutory representatives** that the commercial company intends to fill with foreigners, are included in the project by any of the three means set forth below.

A basic prerequisite for the involvement of a foreigner in the project is the **duration of the employment or business relationship** (undertaken pursuant to foreign legal regulations) **between the foreigner and the foreign investor** during the entire period of such foreigner’s assignment.

##### **1) Internal transfer of an employee**

Transfer of an employee within a single company on the basis of a letter of dispatch or other similar document which contains confirmation from the commercial corporation with its registered office outside of the Czech Republic that the foreigner will be transferred to a commercial corporation or detached facility in the Czech Republic for the purpose of performing employment. **During the entire period of his/her assignment, the foreigner shall be in an employment relationship with the foreign investor and not in any way with the domestic commercial company.**

Dispatch of a foreigner by a foreign investor to the Czech Republic for the purpose of fulfilling tasks arising from a contract concluded between such investor and a commercial company based in the Czech Republic. **During the entire period of his/her assignment, the foreigner shall be in an employment relationship with the foreign investor and not in any way with the domestic commercial company.**

*Type of document issued to the foreigner:*

- a) **Work permit + employee card** (in the case that the employee has been employed with the dispatching entity for a period **shorter than six months** prior to being dispatched to the Czech Republic), or
- b) **Internally transferred employee card** (in the case that the employee has been employed with the dispatching entity for a period of **at least six months or longer**).

*Legal regime governing internal transfer of an employee:*

- a) Section 95 of the Employment Act + Section 42g (3) of the Act on Residence of Foreign Nationals on the Territory of the Czech Republic
- b) Section 42k of the Act on Residence of Foreign Nationals on the Territory of the Czech Republic  
(this pertains to a position outside of the *central registry of vacant positions that may be filled by employee-card holders*).

## 2) **Internal transfer of a statutory representative**

Dispatch of a foreigner by a foreign investor to the Czech Republic for the purpose of performing the duties of a statutory representative within a commercial company based in the Czech Republic. **Such foreigner shall not enter into an employment relationship with the domestic commercial company.<sup>5</sup> In the Czech Republic, such foreigner shall fulfil the tasks arising from his/her duties as a statutory representative.** In the event that the foreigner will fulfil tasks arising from the company's subject of operation, he/she shall apply for a work permit for this purpose.

*Type of document issued to the foreigner:*

**Visa for a stay longer than 90 days for the purpose of conducting business** (+ work permit).

---

<sup>5</sup> The foreigner's relationship to the domestic company is typically governed by a **contract on performance of a function** pursuant to the provisions of Section 59 et seq. of the Act on Commercial Corporations and Cooperatives.

In this case, a work permit authorises the foreigner to fulfil tasks for the commercial company arising from the subject of such company's activities; however, it **does not serve as a requisite of the residence permit application**, as it is not relevant for the purposes of the residence permit. **The process of issuance of a work permit by the Labour Office of the Czech Republic is not part of this project.**

*Legal regime governing the internal transfer of a statutory representative:*  
Section 30 et seq. of the Act on Residence of Foreign Nationals on the Territory of the Czech Republic (+ Section 89 [2] and [3] of the Employment Act).

### 3) Localisation of an employee

Dispatch of a foreigner by a foreign investor to the Czech Republic for the purpose of his/her temporary employment with a commercial company based in the Czech Republic. **The foreigner shall enter into an employment relationship with the domestic commercial company.**

*Type of document issued to the dispatched foreigner:*  
**Employee card/Blue card**

*Legal basis of localisation:*  
Section 42g (2) of the Act on Residence of Foreign Nationals on the Territory of the Czech Republic (this pertains to a position from the *central registry of vacant positions that may be filled by employee-card holders*) and Section 42i of the Act on Residence of Foreign Nationals on the Territory of the Czech Republic (this pertains to a position from the *central registry of vacant positions that may be filled by blue-card holders*).

#### **Criteria for inclusion in the project**

An application can be included in the project only if it involves the **position of a manager, specialist or statutory representative in a commercial company based in the Czech Republic** that cumulatively fulfils the following conditions:

- 1) The company has been conducting business in 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 Tax.
- 2) The company has settled liabilities toward the Czech Republic.<sup>6</sup>
- 3) The company is registered in the Czech Republic as a payer of health insurance and social-security insurance contributions.

---

<sup>5</sup> See Section 46 of Act No. 455/1991 Coll., on Trades: The company does not have any outstanding liabilities ensuing from business activities (document prepared by the locally relevant Tax Office; the document may not be older than six months). The company does not have any outstanding liabilities relating to insurance premiums for social security and its contribution to the state employment policy (document issued by the Czech Social Security Administration; the document may not be older than six months). The company does not have any outstanding liabilities relating to insurance premiums for public health insurance (documents are issued by the relevant insurers; documents may not be older than six months).

- 4) Within the two-year period prior to submitting the application for inclusion of a position in the project, a penalty greater than CZK 100,000 has not been imposed on the company more than once per year due to a breach of the obligation to contribute to public health insurance or a breach of the obligations arising from the legal regulations enforced by the Labour Office of the Czech Republic, the State Labour Inspection Authority or Local Labour Inspectorates.
- 5) The company shall fulfil the following criteria stipulated according to the type of business and according to whether this involves an internal transfer or localisation of an employee or internal transfer of a statutory representative:

<b>MANUFACTURING COMPANY</b>	Transfer/localisation of an <b>employee</b>	Transfer/localisation of a <b>statutory representative</b>
Minimum number of employees in the Czech Republic as at the date of submitting the application	250, of which project participants comprise a maximum of 10%	50
Minimum number of employees employed globally by all companies related to the foreign investor in terms of capital	1,000	
Minimum amount of investment in fixed tangible assets in the Czech Republic during the company's period of operation in the Czech Republic as at the end of the last fiscal/calendar year	CZK 50 million	CZK 50 million
Minimum amount of the company's annual turnover in the Czech Republic according to financial statements for the last accounting period	CZK 250 million	
Minimum amount paid in direct and indirect taxes in the Czech Republic in the last accounting period	CZK 1 million	
<b>COMPANY IN THE AREA OF SERVICES</b>	Transfer/localisation of an <b>employee</b>	Transfer a <b>statutory representative</b>
Minimum number of employees in the Czech Republic as at the date of submitting the application	250, of which project participants comprise a maximum of 10%	50
Minimum number of employees employed globally by all companies related to the foreign investor in terms of capital	1,000	
Minimum amount of investment in fixed tangible and intangible assets in the Czech Republic during the company's	CZK 5 million	

period of operation in the Czech Republic as at the date of conclusion of the last fiscal/calendar year		
Minimum amount of wage costs paid in the Czech Republic in the last two years	CZK 175 million	CZK 35 million
Minimum amount of the company's annual turnover in the Czech Republic according to financial statements for the last accounting period	CZK 250 million	
Minimum amount paid in direct and indirect taxes in the Czech Republic in the last accounting period	CZK 1 million	

<b>COMPANY OF REGIONAL SIGNIFICANCE</b>	Transfer/localisation of an <b>employee</b>	Transfer/localisation of a <b>statutory representative</b>
Minimum number of employees in the Czech Republic as at the date of submitting the application	150	Transfer/localisation cannot be carried out
Minimum amount of wage costs paid in the Czech Republic in the last two years	CZK 130 million	

The Ministry of Industry and Trade shall decide on the inclusion of a company of regional significance (manufacturing company, IT company or shared-services centre) in the project on the basis of an affirmative statement from CzechInvest.

### **Involvement of project participants**

1) A **commercial company** based in the Czech Republic to which a foreign investor dispatches a foreigner in connection with an internal transfer or localisation shall:

- report to the Labour Office the vacant position that the company wants to fill with a foreigner (in the case of localisation of an employee) or shall negotiate with the Labour Office the conditions for dispatching a foreigner to the Czech Republic (in the case of an internal transfer of an employee who has not been employed with the dispatching entity for at least six months prior to being dispatched to the Czech Republic).
- submit to the Labour Office of the Czech Republic a work-permit application on the basis of a power of attorney from the foreigner (in the case of an internal transfer of an employee who has not been employed with the dispatching entity for at least six months prior to be dispatched to the Czech Republic).

- submit an application for the inclusion of the employment position or position of statutory representative in the project together with all required appurtenances.

## **2) The internally transferred or localised foreigner**

- shall submit to the locally relevant embassy or consulate an application for issuance of an internally transferred employee card, blue card, employee card or a visa for a stay longer than 90 days for the purpose of conducting business, including all appurtenances required by law.
- in the case of issuance of a visa for a stay longer than 90 days for the purpose of obtaining an employee card, blue card or internally transferred employee card, shall appear at a facility of the Ministry of the Interior within three business days following his/her arrival in the Czech Republic for the purpose of providing biometric data necessary for preparation of the employee card, blue card or internally transferred employee card; in the case of issuance of a visa for a stay longer than 90 days, he/she shall appear at the police within three business days following his/her arrival in the Czech Republic for the purpose of fulfilling the registration obligation.<sup>7</sup>

## **Involvement of the administrator and co-administrators**

### **1) Ministry of Industry and Trade**

- shall assess the application for inclusion of an employment position or position of a statutory representative in the project and inform the relevant commercial company of the result of such assessment.
- shall inform the co-administrators about the inclusion of the new application in the project.<sup>8</sup>
- shall ensure publicity of the project.

### **2) The Ministry of Foreign Affairs or relevant embassy or consulate of the Czech Republic**

- shall accept the foreigner's application for an internally transferred employee card, blue card, employee card or visa for a stay longer than 90 days for the purpose of conducting business.
- shall inform the applicant of the possibility of using express delivery of the application to the Czech Republic by means of a pre-paid parcel service, which shall be paid for by the applicant/foreign investor.
- shall inform the successful applicant of the positive ruling issued by the Ministry of the Interior regarding his/her residence-permit application and shall issue to him/her a visa for a stay longer than 90 days for the purpose of obtaining an employee card, blue card or internally transferred employee card or shall imprint

<sup>7</sup> Section 93 of the Act on Residence of Foreign Nationals on the Territory of the Czech Republic.

<sup>8</sup> In the case of localisation of an employee, the Ministry of Industry and Trade shall concurrently inform the co-administrators of the date on which the relevant vacant position was reported to the Labour Office, as such position must be included in the *central registry of vacant positions that may be filled by employee-card holders* within 30 days of being reported by the employer, which is a condition for issuance of an employee card.

in the foreigner's travel document a visa for a stay longer than 90 days for the purpose of conducting business.

### **3) Ministry of Interior – Department of Asylum and Migration Policy**

- within 30 calendar days following the date of submission of the application to an embassy or consulate, shall
  - a) rule on the issuance/denial of a visa for a stay longer than 90 days for the purpose of conducting business and issue or, as the case may be, not issue an order for the embassy or consulate to issue a visa for a stay longer than 90 days, or
  - b) rule on whether the conditions for issuance/denial of an employee card, blue card or internally transferred employee card have been fulfilled and issue or, as the case may be, not issue an order for the embassy or consulate to issue a visa for a stay longer than 90 days for the purpose of obtaining an employee card, blue card or internally transferred employee card,though only under the condition that the application submitted by the foreigner is supported by all legally required appurtenances and it is physically delivered to the Ministry of the Interior within 20 days following the date of submission of the application at the latest.
- provide to the foreigner, to whom a visa for a stay longer than 90 days for the purpose of obtaining an employee card, blue card or internally transferred employee card was issued and who has appeared for the purpose of providing biometric data, confirmation of fulfilment of the conditions for issuance of an employee card, blue card or internally transferred employee card.
- issue an employee card, blue card or internally transferred employee card to the foreigner within 15 calendar days following collection of his/her biometric data.

### **4) The Ministry of Labour and Social Affairs or the Labour Office of the Czech Republic**

- shall assess fulfilment of the condition that the commercial company has not been repeatedly penalised due to breach of obligations arising from legal regulations enforced by the Labour Office of the Czech Republic, the State Labour Inspection Authority or Local Labour Inspectorates, and shall inform the Ministry of Industry and Trade about the result of such assessment.
- shall rule on the issuance/denial of a work permit in the case of an internal transfer of an employee who has not been employed with the dispatching entity for at least months prior to being dispatched to the Czech Republic or is not in the category of foreigners who are authorised to apply for an internally transferred employee card (e.g. such foreigners have been employed for longer than six months but are not in a position of a manager or specialist).
- in the case of an internal transfer of a statutory representative, the Ministry of Labour or Labour Office of the Czech Republic shall rule on the issuance/denial of a work permit.

<b>Publicity:</b>
-------------------

The Project is publicised via the website of the Ministry of Industry and Trade.

In cooperation with CzechInvest, the Ministry of Industry and Trade ensures distribution of informational materials about the project among foreign investors.

<b><u>Annexes:</u></b>
------------------------

- 1) Process of internal transfer of an employee
- 2) Process of localisation of an employee pursuant to the project
- 3) Process of internal transfer of a statutory representative pursuant to the project
- 4) Application for inclusion of an internal transfer or localisation of an employee in the project
- 5) Application for inclusion of an internal transfer of a statutory representative in the project
- 6) Sample "Foreign Investor's Declaration on Dispatching a Foreigner to the Czech Republic"<sup>9</sup>

---

<sup>9</sup> This standardised sample is intended for two types of accelerated migration procedures: localisation of an employee and internal transfer of an employee.