

The challenges of immigrants' access to information on legal residence requirements in the Czech Republic

Violeta Prokofjeva

Abstract:

In the Czech Republic, immigrants' legal residence depends on the fulfillment of a number of legal requirements. Timely access to comprehensible information and consistent application of legal norms by the authorities can be crucial for maintaining an immigrant's legal residence status. The article explores existing obstacles to immigrants' access to such information.

In the Czech Republic, arguably due to the specifics of its immigration and employment legislation, sliding from legal to illegal status for immigrant workers may be relatively easy.¹ One of the most common reasons why migrant workers lose their legal status is the event of unemployment, because residence permits are closely dependent on the uninterrupted existence of the purpose of the stay - one of which is employment. Therefore if the foreigner² is fired, the purpose of his or her stay in the Czech Republic ceases to exist, and the Labour Office and the Foreign Police begin the administrative process of cancelling both documents required for employment in the Czech Republic – the employment permit and the visa.³

The meaning of the term “purpose of stay” in the law is often defined narrowly so that even a short period of unemployment, objectively required for anyone to find a new job, qualifies as a loss of purpose of stay. In the case of a narrow interpretation of the law, immigrants are given no time to reorient themselves on the labour market. Such ambiguity of the legal norms may have dramatic outcomes for people who depend financially on their work in the Czech Republic, and who may therefore prefer losing legal status to losing income for themselves and possibly their family in the country of origin. Moreover, it gives disproportional power to

¹ In addition to approximately 400 000 foreigners legally residing in the Czech Republic, the estimated number of foreigners without necessary documentation in the country is currently between 100 000 and 200 000, see for example <http://www.clovekvtsni.cz/index2.php?id=143&idArt=779>.

² It does not include those foreigners who have a permanent residence status in the CR.

³ The issue is regulated by the laws 435/2004 Sb. o zaměstnanosti/ Law on Employment, §85, §88, §89 , and 326/1999 Sb. o pobytu cizinců na území České republiky/Law on the Residence of Foreigners on the Territory of the Czech Republic, §37.

lower-level bureaucrats in making decisions that may impose very high costs for the individual immigrant. A clear authoritative interpretation of law as well as an easy access to such interpretation are crucial in ensuring that both the rights of the individual immigrant and the law are respected.

In order to learn about the current situation concerning the access of immigrants to legal information about their residence in the Czech Republic, I devised a fictional case study of a woman with Ukrainian citizenship⁴, who, after almost two years of residence was about to lose her job in the middle of August. The new employment she has allegedly managed to find with a different employer in Prague begins only at the beginning of September, leaving about a two-week gap between her two employments. Her current visa expires at the end of September. As a foreigner with limited Czech language skills (comparable to those of an average foreigner in the Czech Republic), I attempted to put myself into this woman's role and to solve 'my problem' through consulting the relevant legislation, searching official government sources on the internet, contacting the Ministry of Labour and Social Affairs and making inquiries over the telephone and in person with the Foreign Police and the Labour Office in Prague.

First of all, it is interesting to focus on how easy or difficult it was to access the information. I started with the website of the Czech Ministry of Interior⁵, since it is the main state institution dealing with immigration policy. I had expected to see an authoritative source; however, the website contained rather little information that could be clearly identified as relevant for foreigners. Visa requirement information for foreigners was located in a misleading subcategory *Občan na úřadě (Citizen at an administrative office)*⁶. Some information about immigration and various immigration regulations was located in an archived site of the Ministry of Interior⁷, however it was only available in rather complex and bureaucratic Czech which required an advanced command of the language.

I proceeded by searching the website of the Foreign Police⁸, which is in charge of practical implementation of immigration policy and the control of the status of immigrants. The entire website appeared to be under construction. However, especially striking was the Prague Foreign Police website which lacked even such basic information as contacts and required documentation for different categories of foreigners. Instead, a number of press releases and photographs about police campaigns to uncover workers without the required documentation were featured on the website. I had a similar experience when I tried to locate contacts to the Foreign Police on the website run by the Czech Ministry of Labour and Social Affairs⁹ - the links to the police website did not work.

⁴ The largest group of immigrants in the Czech Republic are from the Ukraine.

⁵ www.mvcr.cz

⁶ Úvodní strana / Služby pro veřejnost / Rady a služby /Občan na urade/ Dokumenty

⁷ <http://aplikace.mvcr.cz/archiv2008/rady/cizinci/info.html#43>

⁸ <http://www.policie.cz/sluzba-cizinecke-policie.aspx>

⁹ www.cizinci.cz

The information on the internet was fragmented across a range of websites, institutions, and was not always updated. Furthermore, only rarely was the information available in languages spoken by larger groups of migrants, especially those who may experience difficulties in understanding information in Czech, such as Vietnamese or Mongolian. The available information was almost invariably in complex, bureaucratic Czech, which was quite hard to understand even for me, a person with the advantage of knowing another Slavic language, a person with a university education who has two-years of experience living in the Czech Republic and speaking Czech. It is ironic that during my visit to the Prague headquarters of the Foreign Police office I overheard a member of the staff advising another foreigner to look up the required information on the internet.

Apart from the internet, I made telephone inquiries in Czech to both the Foreign Police and the Labour Office in Prague. I was often spoken to in a very fast manner so that I had to concentrate more on understanding the words, often professional jargon, rather than the contents. For instance, on several occasions I was encouraged to go to 'Domažlická', which, as I later found out on the internet, was the main Labour Office in Prague and the reference was to its address in Domažlická Street. At one point the person I was talking to just told me that they were in a hurry and I should speak more quickly, as I was struggling to find the right words in Czech. Only after several telephone calls I started to form a general idea of how the system works, which suggests that an immigrant who does not have the time, money and skills to make such telephone calls and does not speak a nearly perfect Czech, may have troubles with finding information on which his or her legal existence in the Czech Republic depends.

During the visits I made in person to the offices of the Foreign Police in Prague – the departments in Smíchov and the main office in Žižkov – the access to information was also not particularly easy. In Smíchov, there was no separate information desk, so I took a place in line with the other applicants who wished to submit documents. Fortunately, the waiting area was comfortable and not overly crowded, and it took me about fifteen minutes to receive an answer. On the other hand, at the crowded Žižkov department there is an information counter. However, the capacity of the only person working behind the desk was obviously challenged by the never-ending line of about thirty immigrants. Moreover, no electronic tickets to regulate the order in the line were available¹⁰ so waiting was also a constant struggle to avoid determined people trying to jump to the front of the line. It lasted about an hour until I received a two-minute answer.

So what kind of information did I receive at various places and what was its quality? After locating the contact information on the archived pages of the Ministry of Interior, I made email inquiries. I contacted two Foreign Police offices in Prague, the headquarters of the Foreign Police, as well as the Unit of Immigration, Border Protection and Control¹¹ of the Ministry of Interior. In my email written in imperfect yet comprehensible Czech, I described

¹⁰ Interestingly, tickets were available one floor above in the section for European Union citizens

¹¹ Oddělení imigrace, ochrany hranic a dozoru MV ČR.

‘my problem’ and asked for the interpretation of the relevant legislation, and recommendation for the steps I should take. I promptly received two answers – from the Ministry of Interior and the Foreign Police headquarters.

The reply from the Ministry of Interior was an elaborate explanation of the intention of the legislation. The main point was that the duration of a visa for purposes of work is tied very closely to the existence of employment relations and to the existence of a work permit issued by the relevant Labour Office. The employer is obliged to inform the Labour Office about termination of the employment relations, and the Labour Office in turn informs the Foreign Police, which then begins the administrative process of cancelling the visa. An important point mentioned by the Ministry of Interior was that in the course of the administrative process, which lasts approximately one month, the immigrant will be summoned to provide evidence that he or she has exerted the maximum possible effort to maintain the purpose of his or her stay, i.e. in this case - employment. Contract with the future employer, a copy of the permit of the future employer to employ foreigners and confirmation of the relevant Labour Office of an existent application for granting a work permit for the new employment could all qualify as evidence of the effort. The final decision about continued existence of the purpose of stay would then be taken by the relevant Foreign Police office.

The answer from the Foreign Police headquarters was much briefer. According to their reply, a visa could be renewed starting with 120-day period prior to its expiry. According to my description of ‘my problem’, I was in this 120-day period and should therefore contact the relevant Foreign Police Office immediately with documents required for the renewal of the working visa. The main point was that I could submit documentation even if I did not have the permit of the relevant Labour Office ready as that could be submitted later. The whole issue could be solved at the relevant Foreign Police office.

Despite being differently detailed, neither of the replies gave an unequivocal verdict that only one solution to ‘my problem’ existed, i.e. the termination of the working visa. Both suggested some flexibility in interpreting ‘purpose of stay’, especially in cases where the immigrant has genuinely made an effort to find new employment.

After making email inquiries, I proceeded with telephone inquiries and contacted several Foreign Police offices in Prague. The answers varied. One reply I received stated that I should ask my employer to take me on two weeks earlier in order to avoid the gap between the two employments. Other offices, however, were more lenient and suggested that the process of cancelling the visa lasts longer than two weeks, therefore I should come to the Foreign Police as soon as possible with any documents I have proving existence of the new employment and thus demonstrate my efforts to maintain the purpose of stay. One office said explicitly that the visa would not be cancelled. Having inquired with several Foreign Police offices, I was left guessing how exactly ‘my case’ will be resolved. It seemed that the outcome could in the end depend on which of the Foreign Police offices or even members of staff I would have to deal with.

At last, I personally inquired at two of the offices of the Foreign Police in the centre of Prague – the main office in Žižkov and the Smíchov branch. Following encouraging, if vague, information I obtained via email and telephone, the answers at the offices were quite clear – a two week gap between two employments is not possible. If I want to avoid cancellation of my working visa, I have to manage to eliminate the gap either by extending my current employment or by asking my future employer to take me on sooner. At neither office it was suggested that a possibility may exist to demonstrate continuation of purpose of stay by means such as an existing contract with the new employer or a proof of a current application for a new work permit from the Labour Office.

Easy access to unambiguous, precise and comprehensible information is one important avenue through which the state can support foreigners who wish to abide by the legislation and maintain legal status in the Czech Republic. From my experience, both the accessibility and the quality of information was poor. In terms of access, it was scattered across different sources and available in a complex, bureaucratic language. Where personal contact was involved, the personality of the interlocutor served as an additional advantage or obstacle to access. The contents of the supplied information were at times contradictory and potentially confusing. An authoritative interpretation and consistent application of legislation, as well as improved access to information would be an indispensable help to immigrants willing to work legally in the Czech Republic. Improving the currently inadequate situation could be one way of promoting a positive immigrant experience of interaction with state authorities, which could in turn serve as a building stone for more trusting and open relationship between immigrants and their adopted home-country.

The author is presently doing her Master of Public Policy degree at the Hertie School of Governance in Berlin. In summer 2008 she was an intern at the Multicultural Centre Prague.