

Factual analysis of Member States Investors' Schemes granting citizenship or residence to third- country nationals investing in the said Member State

Deliverable B.II Investors' Residence Schemes in the Czech Republic

JUST/2016/RCIT/FW/RIGH/0152 (2017/06)



This Report has been prepared by Alena El Hahi for Milieu Ltd under the contract JUST/2016/RCIT/FW/RIGH/0152 (2017/06).

The views expressed herein are those of the consultants alone and do not necessarily represent the official views of the European Commission.

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I. GENERAL BACKGROUND

■ *Legal background*

The legal basis for the acquisition of Czech residency by investment is Act No 222/2017¹ (Act No 222/2017), which is implemented by Government Regulation No 223/2017² and by Decree No 224/2017³. Act No 222/2017 incorporates the provisions on the long term residence permit for the purpose of investment in Act No 329/1999 on the Residence of Foreign Nationals⁴ (Act No 326/1999).

Act No 222/2017, Government Regulation No 223/2017 and Decree No 224/2017 were introduced in July 2017 and entered into force on 15 October 2017.

Before the entry into force of these acts introducing into the Czech legal order the long-term residence permit for the purpose of investment, a foreign investor had to apply for a visa for a stay exceeding 90 days for the purpose of carrying out business activities pursuant to Section 31 of Act No 326/1999. The prerequisites for granting the visa include, among others, entitlement for carrying out of business activities (i.e. by providing a preliminary extract from the Trade Register) and sufficient financial means for the stay for this purpose, which would enable to carry out the business activities in question. Before the introduction of the long-term residence permit for the purpose of investment Act No 326/1999 did not take into account the fact that the foreign national intends to make in the Czech Republic a significant investment, the potential benefit of the investment for the Czech Republic, the number of jobs created, or the amount of the invested financial means (that is, the amount of money invested). After arrival in the Czech Republic on the basis of the visa for a stay exceeding 90 days for the purpose of carrying out business activities, the foreign national applied for the long-term residence permit for the purpose of carrying out business activities pursuant to Section 42 and Section 46(7) of Act No 326/1999. These provisions are still in force.

The newly introduced long-term residence permit for the purpose of investment, which is laid down in Section 42n of Act No 326/1999 is an alternative to the visa for a stay exceeding 90 days for the purpose of carrying out business activities, which is granted under the same conditions as before the entry into force of Act No 222/2017. The main condition for obtaining the long-term residence permit for the purpose of investment is proving of a so-called significant investment⁵ in the Czech Republic. The significant investment is examined during the procedure for granting of the long-term residence permit for the investment purpose. Its progressive realisation is further examined during the procedure for the renewal of the long-term residence permit for the purpose of investment. Significant

¹ Act No 222/2017 Amending Act No 326/1999 on the Residence of Foreign Nationals on the Territory of the Czech Republic, as Amended, and Other Related Acts (*Zákon č. 222/2017 Sb., kterým se mění zákon č. 326/1999 Sb., o pobytu cizinců na území České republiky a o změně některých zákonů, ve znění pozdějších předpisů, a další související zákony*), Collection of Laws of the Czech Republic, Chapter 81/2017, available at http://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=222/2017&typeLaw=zakon&what=Cislo_zakona_smlouvy.

² Government Regulation No 223/2017 of 10 July 2017 on Some Conditions for Issuing and Prolongation of the Validity of the Long Term Residence Permit for the Purpose of Investment (*Nářízení vlády č. 223/2017 Sb., ze dne 10. července 2017, o některých podmínkách vydání a prodloužení platnosti povolení k dlouhodobému pobytu za účelem investování*), Collection of Laws of the Czech Republic, Chapter 81/2017, available at http://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=222/2017&typeLaw=zakon&what=Cislo_zakona_smlouvy.

³ Decree No 224/2017, of 14 July 2017, amending Decree No 368/1999, laying down Elements and Number of Photographs Necessary Under the Act on the Residence of Foreign Nationals (*Vyhláška č. 224/2017, ze dne 14. července 2017, kterou se mění vyhláška č. 368/1999 Sb., kterou se stanoví náležitosti a počty fotografií vyžadovaných podle zákona o pobytu cizinců, ve znění pozdějších předpisů*), Chapter 81/2017, available at http://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=224/2017&typeLaw=zakon&what=Cislo_zakona_smlouvy.

⁴ Act No 326/1999 of 30 November 1999 on the Residence of Foreign Nationals on the Territory of the Czech Republic, and amending other selected acts (*Zákon č. 326/1999 Sb., ze dne 30. listopadu 1999 o pobytu cizinců na území České republiky a o změně některých zákonů*), Chapter 106/1999, available at <https://www.zakonyprolidi.cz/cs/1999-326#f1991472>.

⁵ Section 1(A) of Government Regulation No 223/2017.

investment is further defined in point 1.1 of Section II below. The successful applicant directly obtains the long-term residence permit for the purpose of investment and thus avoids the requirement of prior stay in the Czech Republic on the basis of a visa for a stay exceeding 90 days. On the contrary, in order to obtain the long-term residence permit in order to carry out business activities, the applicant must first reside in the Czech Republic on the basis of a visa for a stay exceeding 90 days for the purpose of carrying out business activities.

In contrast with the long-term residence for the purpose of carrying out business activities the applicant for long-term residence for the purpose of investment does not have the obligation to provide certain documents, such as a document proving accommodation in the Czech Republic or sufficient financial means for the residence in the Czech Republic. The rules for the reunification of the holder of the long-term residence permit for the purpose of investment with his family members are also less strict, since family members may apply for the residence permit as soon as the holder of the long-term residence permit for the investment purpose obtains his permit. Finally, the time-limit for issuing the decision on the long-term residence permit is 30 days, or, 60 days for particularly complex cases, whereas the time-limit for the decision on the visa exceeding 90 days for the purpose of carrying out business activities is fixed at 90 days.

As already mentioned, the essential condition for granting of the long-term residence permit for the purpose of investment is proving of the so-called **significant investment**. The significant investment consists of:

- (a) investment of at least CZK 75 000 000 (EUR 3 000 000) and at the same time
- (b) creation of a prescribed number of jobs (and keeping of such number of jobs for a period of time corresponding at least to the period of validity of the residence permit).

In order to take into consideration the development of the economic situation of the Czech Republic, the extent of the significant investment is determined by Government Regulation, that is, by subsidiary legislation⁶. Therefore, if the economic situation in the Czech Republic changes, the investment required and the number of jobs that must be created can also be changed to correspond to the actual economic situation. The fact that the amount of investment required can be changed through Government Regulation rather than primary legislation means that it can be easily amended.

The applicant must also submit the **business plan**. The credibility and feasibility of the business plan is examined together with its benefit for the Czech Republic as a whole, or for one of its regions or districts.

The long-term residence permit for the purpose of investment may be issued also to a foreign national who is a governing body, a member of a governing body, a procurator or a partner of a business corporation, on condition that their activity in the Czech Republic will have significant influence on the business activities of the business corporation.

Any foreign national can apply for the long-term residence permit for the purpose of investment. A **foreign national is defined in Act No 326/1999 as a natural person other than a Czech national; including an EU national.**

■ *Competent authorities*

Act No 2/1969⁷ lays down the competences of the ministries and other central government bodies. The **Ministry of the Interior (MoI)** is the competent authority for migration issues. Section 12 of Act

⁶ Section 1 of Government Regulation No 223/2017.

⁷ Act of the Czech National Council No 2/1969 of 8 January 1969 Establishing the Ministries and Other Central Government Bodies of the Czech Socialist Republic (*Zákon České národní rady č. 2/1969 Sb., ze dne 8. ledna 1969 o zřízení ministerstev a jiných ústředních orgánů státní správy České socialistické republiky*), Collection of Laws of the Czech Republic, Chapter 1/1969, available at <https://www.zakonyprolidi.cz/cs/1969-2>

No 2/1969 lays down the competencies of the MoI. The Ministry of the Interior is a central governmental authority for home affairs, in particular for public order and other matters relating to internal order and security within its defined scope of competence, including supervision of road traffic safety, fire protection, the right of association and the right of assembly, and registering organisations with international links, public collections, state, economic and service secrets, maintaining archives; and the territorial structure of the state, travel documents, granting residence to foreign nationals and granting refugee status, the national border, surveying of the national border, maintenance and documentation, national symbols, first names and surnames, Registers of Vital Records; nationality, identity documents, reporting residence, the register of inhabitants, and birth (personal) identification numbers, firearms and ammunition. The MoI also maintains the telecommunication network of the Police of the Czech Republic and provides guidance relating to encoding services. Finally, the MoI also cooperates with Interpol.

Within the Ministry of the Interior, there is the Department for Asylum and Migration Policy responsible for granting of visas and issuance of short-term and long-term residence permits, as well as for their renewal.

II. PROCEDURES, COMPETENT AUTHORITIES AND APPLICABLE CRITERIA

1 APPLICATION PHASE

1.1 PROCEDURES

According to Act No 222/2017 any foreign national, **who satisfies the conditions laid down in Section 42n onwards** can apply for the long-term residence permit for the purpose of investment.

An applicant is either:

- a natural person, who is an entrepreneur. An entrepreneur is pursuant to Section 420 of the Civil Code⁸ a natural person, who carries out a gainful activity at one's own account and responsibility in a trade or similar manner with the intention of doing so consistently for the purpose of making a profit. The entrepreneur must have full legal capacity to act, that is, be at least 18 years of age.
- or a natural person, who is a governing body, a member of a governing body, a procurator or a partner of a business corporation. It is essential that the activity of such an applicant in the Czech Republic will have a significant influence on the business activities of the business corporation. According to Section 1(c) of Government Regulation No 223/2017 the number of natural persons in a corporation applying for the residence permit is limited to five. In this case, their significant influence in the commercial corporation is assumed. If there are more than five applicants from the same corporation, their real influence in the corporation will have to be proved and their profiles with their CVs will have to be submitted.

Sections 42n and 42p of Act No 222/2017 set out the **qualifications and general requirements** for the applicant for the residence permit under the act. The applicant must be a natural person – entrepreneur who intends to stay in the Czech Republic for a period exceeding 90 days and intends to make in the Czech territory a **significant investment**, which is defined in Section 1(a) and (b) of Government Regulation No 223/2017. It is an investment whereby investments in the Czech Republic amounting to at least CZK 750 000 000 (EUR 3 000 000) are made and at the same time the investment must create at least 20 jobs in the Czech Republic. However, such financial amount of the investment may be replaced, up to a maximum of 60 %, by investment in another property (material and immaterial property including technological and informational knowledge, buildings, pieces of land, machines, etc.) on condition that the benefit of property is for the applicant corresponding to the financial amount that it replaces. That means that the material or immaterial property must be evaluated by an appraisal expert in order to determine the financial amount of the significant investment that it replaces. The ownership and origin of another property must be proved i.e. by purchase contract and the expert appraisal of the property must be provided. In practice, investment in another property will consist mainly in purchase of immovable property, which must not exceed CZK 451 200 000 (EUR 1 800 000).

According to Section 42p of Act No 222/2017 the **intention to make the significant investment** (the business plan) must be credible and feasible and the significant investment must be beneficial for the Czech Republic as a whole, or for one of its regions or districts. This is evaluated by the MoI on the basis of the opinion issued by the Ministry of Industry and Trade (MIT) according to the criteria laid down in Section 42p(2) of Act No 326/1999, which are explained below.

The **conditions for the credibility and feasibility of the intention to make the significant investment** are the following:

⁸ Act No 89/2012 of 3 February 2012, the Civil Code (Zákon č. 89/2012 Sb., ze dne 3. února 2012, Občanský zákoník), Collection of Laws of the Czech Republic, Chapter 33/2012, available at http://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=89/2012&typeLaw=zakon&what=Cislo_zakona_smlouvy

- the aim of the business plan is adequate to the total volume of the invested financial means and to the time schedule for its implementation,
- the business plan is based on the knowledge of local conditions, situation on the market and applicable legislation,
- the description of the technical and technological solution is not in principle materially wrong.

The significant investment is beneficial for the Czech Republic or for one of its regions or districts if the investment has no significant negative impact upon the quality of life of its inhabitants and if it falls under the branch which is not sufficiently represented in the area, the products or services it offers are scarce or difficult to access, the jobs to be created are suitable mainly for qualified persons or for people who are disadvantaged with regard to access to the labour market, the investment has in the Czech economy an innovative character, and it has potential to create other investment opportunities.⁹

The applicant must have financial means to make the significant investment, which are deposited in the account of a payment services provider in the EU/EEA. If the applicant has already resided in the Czech Republic on the basis of another residence permit, he must be debt-free. If the applicant is in the management of the commercial corporation, the mentioned conditions are to be satisfied by the commercial corporation.

The **applicant must submit the following documents:**¹⁰

- Travel document.
- A photograph.
- A document demonstrating that the foreign national or the commercial corporation, of which the foreign national is a governing body, member of a governing body or of which such foreign national is a procurator or partner, has access in the Territory to finances for implementation of significant investment (e.g. a statement of accounts from a bank established in the EU). Such document must not be more than 30 days old on the date of lodging the application.
- Financial statements or similar documents containing the net profits of the applicant, commercial corporation and its controlling entity for the two calendar or accounting years preceding the date of lodging the application.
- Upon request, proof of origin of the finances for implementation of the significant investment (tax return or, in the case of a natural person who is an employee, a document confirming income certified by the employer).
- A statutory statement by the applicant that a decision with effect similar to a bankruptcy decision has not been served either on the applicant, the commercial corporation or its controlling entity in the country of its hitherto operations.
- Documents proving ownership and origin of other assets to be invested (e.g. purchase contract) and an expert valuation of such assets.
- A document proving that the foreign national is debt-free (unless the applicant has not yet been in the Czech Republic).
- A proof of registration in the appropriate register, list or records.
- Upon request, a document similar to an extract from the Penal Register issued by the state of which the foreign national is a citizen and also by the states in which the foreign national has had continuous residence for over six months in the last three years. The extract from the Penal Register record may be replaced by an affidavit, if the given state does not issue such a document.
- Upon request, a document confirming satisfaction of the requirements of measures for preventing the introduction of infectious disease.
- Travel medical insurance certificate and, upon request, proof of payment of the insurance premium specified in the travel medical insurance certificate.

⁹ Section 42p(2) of Act No 326/1999.

¹⁰ Section 42o(1) of Act No 326/1999.

- A business plan containing a description of the targets of the plan to implement a significant investment, a risk assessment of execution of this plan, the reasons for making such significant investment in the Czech Republic, a description of the separate stages of the plan to implement a significant investment, including a time schedule, the volume of finances earmarked for each stage, description of the product to be manufactured or service to be provided, customer and sales outlet target groups and of the technical and technological processes of production or the method of provision and description of the method of securing a work force. The business plan must mention the applicant's characteristics, describe the planned activities including the technical and technological processes of the planned activities, personnel requirements of the projects with the description of methods of securing a workforce, project end result/product or product/service description, investment schedule, description of a method of financing, description of the main competitors in the Czech Republic, description of customers and sales outlets, reasons for investing in the Czech Republic, and impact of investment on the quality of life of the population.

If the applicant is a foreign national applying for the long-term residence for investment purposes as a partner, governing body, member of a governing body or procurator of a commercial corporation, the following documents must be submitted:

- a document proving the commercial corporation is debt-free,
- a document proving that the applicant's activity in the territory of the Czech Republic will have a substantial influence on the business of the commercial corporation,
- an extract from the commercial register proving that his share in such commercial corporation is at least the minimum share stipulated in Section 1(d) of Government Regulation No 223/2017, which is 30 %.

Applications must be done in the form prescribed by the MoI and submitted at the appropriate consulate. If the applicant is already staying in the Czech Republic on the basis of a long-term visa or a long-term residence permit for another purpose (excluding a long-term visa or a long-term residence permit for exceptional leave to remain in the Territory), he may lodge his application **directly with the MoI office.** The foreign national may lodge the application only with the consulate in the State of which he is a national or which issued his travel document, or where he has a long-term residence or a permanent residence¹¹. In order to lodge the application, the applicant must make an appointment with the competent consulate or office of the MoI CR¹².

The **procedure is subject to the following fees:**

- 1500 CZK (EUR 60) for lodging of the application for the long-term residence permit,
- 1500 CZK (EUR 60) for lodging the application for the extension of the validity of the residence permit,
- 1000 CZK (EUR 40) for issuing of the long-term residence permit,
- 1000 CZK (EUR 40) for the extension of the long-term residence permit.

The **application for the long-residence permit is not admissible** if the applicant did not make an appointment with the competent authority or if he lodged the application with the non-competent authority. The application is further not admissible if the applicant did not pay the administrative fee, if he did not submit the requested documents, the application was not made on the prescribed form, the applicant refused the taking of fingerprints or photograph, or, in case he does not know the Czech language, he did not procure himself a translator or an interpreter at his own costs¹³.

In order to determine whether the investment to be made is a significant investment, the intent to make a significant investment is credible and feasible and will be beneficial for the Czech Republic or

¹¹ Section 169g of Act No 326/1999.

¹² Section 169f of Act No 326/1999.

¹³ Section 169h of Act No 326/1999.

one of its regions or districts, whether the benefit of other invested property is comparable with the investment of the part of the financial means which it substitutes, whether the activity of the foreign national in the Czech Republic will have significant influence on the business activities of the commercial corporation and whether the share of the foreign national in the commercial corporation is at least 30 %, the MoI requests an opinion from the Ministry of Industry and Trade (MIT)¹⁴.

If the applicant complies with all the necessary conditions, the MoI will issue the long-term residence permit for the purpose of investment. If the applicant is not in the territory of the Czech Republic, he will be granted a visa for a stay exceeding 90 days for the purpose of collecting the long-term residence permit for the investment purpose.¹⁵

The validity of the long-term residence permit for the purpose of investment is up to two years¹⁶.

The **validity of the residence permit may be repeatedly extended**¹⁷, if the applicant still complies with the conditions for issuing the residence permit and if he proceeds in line with the intent to make the significant investment, namely if the investment proportionally corresponds to the length of stay in the Czech territory and to the extent of the investment to be made, or if the applicant already made the significant investment, he continues with the significant investment. For example, if according to the business plan CZK 75 000 000 (EUR 3 000 000) are to be invested within five years, and after two years the applicant applies for an extension of the residence permit, then at the time of the application for the extension CZK 30 000 000 (EUR 1 200 000) should have already been invested. This can be checked on the basis of the annual reports, the publication of which is mandatory¹⁸. If the applicant requests the extension (renewal) of the residence permit as a governing body, member of a governing body as a procurator or partner of the commercial corporation, his activity in the territory of the Czech Republic must continue to have significant influence on the business activities of the commercial corporation. According to Section 1(c) of Government Regulation No 223/2017 the number of natural persons in a corporation applying for the residence permit is limited to five. In this case, their significant influence in the commercial corporation is assumed. If there are more than five applicants from the same corporation, their real influence in the corporation will have to be proved and their profiles with their CVs will have to be submitted. This will be assessed by the MoI on the basis of the opinion issued by the MIT. The share of the applicant, who is a partner of the commercial corporation must still correspond to the minimum share stipulated in Section 1(d) of Government Regulation No 223/2017 (30 %). In the procedure for the extension of the validity of the long-term residence permit for the purpose of investment the MoI will also request an opinion from the MIT in order to verify the same fact as mentioned above. The number of jobs created and the amount of invested financial means during the two-year period (the residence permit for the investment purpose is granted for two years) may be monitored via obligatory publication of annual reports.

The MoI shall decide on the application for the long-term residence permit for the purpose of investment within 30 days from the day of lodging the application. For particularly complex cases, the time-limit for issuing the decision is 60 days. Act No 326/1999 does not define particularly complex cases.

Act No 326/1999 specifies in Section 56(1) **reasons for refusal of granting the long-term residence permit for the investment purpose:**

- The applicant did not come for an appointment with the MoI in order to submit the application or he did not submit documents necessary to verify information in the application.
- The applicant provided false information in the application.

¹⁴ Section 42n(4) of Act No 326/1999.

¹⁵ Section 42o(2) of Act No 326/1999.

¹⁶ Section 44(4)(h) of Act No 326/1999.

¹⁷ Section 44c of Act No 326/1999.

¹⁸ However, it is not absolutely necessary that the applicant already invested such an amount. The MIT will check the annual report of the company and examine how the investment is proceeding.

- The applicant is on the list of undesirable persons.¹⁹
- The costs of the stay of the applicant in the Czech Republic would be borne by the Czech Republic.
- The applicant submitted false or forged documents or information necessary to evaluate the application does not correspond to the reality.
- The applicant submitted the application for the employment card (this corresponds to the Single Permit according to Directive 2011/98/EC).
- The following facts were found: the applicant has no valid travel document, he submitted a false travel document, visa, or residence permit, he is listed in the Schengen information system of the Member States as a person who is prohibited to enter the territory of the Member States, there is a reasonable danger that the foreign national could during his stay endanger the security of the State, seriously undermine public order or endanger the international relations of the Czech Republic, there is a reasonable danger that the foreign national could during his stay in the Czech Republic endanger the security of another Member State, seriously undermine its public order or endanger the international relations of another Member State, or the applicant does not meet the requirements of the Ministry of Health to prevent introduction of an infectious disease pursuant to the Act on the Protection of Public Health²⁰.
- It was discovered that the applicant, after the expiration of the residence permit intends to misuse the residence permit for a purpose other than investment.
- The stay of the applicant is not in the interests of the Czech Republic or there is another serious impediment to his residence in the Czech Republic.
- The applicant did not submit, at request, a document on the travel health insurance for the period corresponding to the period of residence in the Czech Republic, and a proof of payment of the premiums.
- The applicant did not pay a fine or costs of procedure in relation to a procedure under Act No 326/1999.
- The applicant does not satisfy one of the conditions for granting the long-term residence permit for the investment purpose.
- The applicant circumvented the law in order to obtain the long-term residence permit for the investment purpose (i.e. he was purposefully nominated as a member of a governing body of a business corporation).

In the case of refusal to grant the long-term residence permit, **the unsuccessful applicant can file an appeal** against the decision²¹ to the Commission for decision-making in matters of residence of foreigners (Commission), which is a body of the appellate administrative authority within the MoI. The time-limit for making the appeal is 15 days from notification of the decision²². The appeal must specify what constitutes a conflict with the law or the inaccuracy of the decision of procedure that preceded it. The applicant must lodge an appeal with the authority which issued the decision, that is with the MoI, which may cancel or amend it if this means satisfying the appeal and if no harm can be caused thereby to any of the parties. If the administrative authority which issued the disputed decision does not deem that conditions for such a step have been satisfied, it must pass on the file with its opinion to the appellate administrative authority.

If the appellate administrative authority concludes that the decision is in contradiction with legislation

¹⁹ According to Section 154 of Act No 326/1999 an undesirable person is a person who cannot enter the territory of the Czech Republic on the ground that the foreigner may, during his stay in the Czech Republic, endanger the security of the State, seriously undermine public order, endanger public health or protection of the rights and freedoms of others or endanger similar interests protected on the basis of an obligation arising from an international treaty.

²⁰ Section 68 of Act No 258/2000 of 14 July 2000 on the Protection of Public Health (Zákon č. 258/2000 Sb., ze dne 14. července 2000 o ochraně veřejného zdraví), Chapter 74/2000, available at <https://www.zakonyprolidi.cz/cs/2000-258#cast1>.

²¹ Section 170b of Act No 326/1999.

²² Section 81 of Act No 500/2004 of 24 September 2004, the Administrative Code (Zákon č. 500/2004 Sb., ze dne 24. září 2004, správní řád), Chapter 174/2004, available at http://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=500/2004&typeLaw=zakon&what=Cislo_zakona_smlouvy.

or that it is incorrect,

- the disputed decision or part thereof will be cancelled and proceedings discontinued,
- the disputed decision or part thereof will be cancelled and the case returned for reappraisal by the administrative authority that issued the decision; the appellate administrative authority must state in its rationale for making this decision the legal standpoint which, during repeated processing of the case, is binding for the administrative authority that issued the disputed decision, or
- it will cancel the decision or amend part thereof.

If the Commission decides not to implement any of the above steps, it must reject the appeal and confirm the disputed decision. If it amends or cancels only part of the disputed decision, it must confirm the remaining aspects. In the case of cancellation of a part of the disputed decision, the case will be returned for reappraisal of this part of the decision by the administrative authority that issued the decision.

The time-limit for issuing the decision is 30 days from the day when the appeal was passed to the Commission. This period can be extended for reasons specified in Section 71 of Act No 500/2004, which includes extension of 30 days in particularly complex cases, or extension for a period necessary to make a request at another administrative body, to make an expert opinion or to deliver a document abroad).

The MoI may cancel the validity of the long-term residence permit for the investment purpose for the following reasons²³:

- The holder of the residence permit was condemned by a final and conclusive judgment for committing an intentional crime in the Czech Republic.
- He does not fulfil in the Czech Republic the purpose, for which the residence permit was granted.
- The holder requests the cancellation of the validity of his residence permit.
- The holder submitted false or forged documents or he submitted substantial information necessary to evaluate the application which does not correspond to the reality.
- The holder did not come for an appointment with the MoI or he did not submit documents necessary to verify information in the application.
- The holder is on the list of undesirable persons.
- The costs of the stay of the holder of the residence permit in the Czech Republic would be borne by the Czech Republic.
- The following facts were found: the holder has no valid travel document, he submitted a false travel document, visa, or residence permit, he is listed in the Schengen information as a person who is prohibited to enter the territory of the Member States, there is a reasonable danger that the foreign national could during his stay endanger the security of the State, seriously undermine the public order or endanger the international relations of the Czech Republic, there is a reasonable danger that the foreign national could during his stay in the Czech Republic endanger the security of another Member State, seriously undermine its public order or endanger the international relations another Member State, or the applicant does not meet the requirements of the Ministry of Health to prevent introduction of an infectious disease pursuant to Act on the Protection of Public Health²⁴.
- It was discovered that the holder, after the expiration of the residence permit intends to misuse the residence permit for a purpose other than investment.
- The stay of the holder of the residence permit is not in the interests of the Czech Republic or there is another serious impediment to his residence in the Czech Republic.
- The holder did not submit, upon request, a document on the travel health insurance for the period corresponding to the period of residence in the Czech Republic, and a proof of payment of the premiums.
- The holder did not pay a fine or costs of procedure in relation to a procedure under Act No

²³ Section 46(8) and Section 37 of Act No 326/1999.

²⁴ Section 68 of Act No 258/2000 of 14 July 2000 on the Protection of Public Health.

326/1999.

- The holder does not satisfy the condition of criminal integrity under S. 174 of Act No 326/1999.
- In the last five years the holder of the residence permit did not comply with an obligation under Act No 326/1999.

In the last two cases the MoI will take into account the impact that withdrawal of the residence permit would have on the private and family life of the foreign national.

1.2 COMPETENT AUTHORITIES AND NON-PUBLIC BODIES

Section 42n onwards of Act No 222/2017 stipulate that **the competent authority is the MoI** (the Department of Asylum and Migration).

The role of the MoI in the application process is described in point 1.1 above.

MIT is also involved in the procedure. During the procedure, the MoI requests the MIT to issue an opinion in order to determine the following facts:

- whether the investment is significant (see point 1.1),
- whether the intent to make the significant investment is credible and feasible and whether it will be beneficial for the Czech Republic, one of its regions or districts (see point 1.1),
- whether the benefit of other invested property is comparable with the investment of the part of the financial means which it substitutes (see point 1.1),
- whether the activity of the foreign national in the Czech Republic will have significant influence on the business activities of the commercial corporation (see point 1.1) and
- whether the share of the foreign national in the commercial corporation corresponds at least to the minimum share fixed in Government Regulation No 223/2017 (30 %).
- In order to issue the above-mentioned opinion, the MoI cooperates with **CzechInvest – the Investment and Business Development Agency**, a state contributory organisation subordinate to the MIT. CzechInvest arranges for the Czech Republic both domestic and foreign investments in the areas of manufacturing, business support services and technology centres. It provides services and development programmes, which contribute to the development of domestic firms, Czech and foreign investors and the business environment as a whole. Apart from issuing the above-mentioned opinion to the MoI, its services include assistance during implementation of investment projects, consulting services for foreign investors, mediation of state investment aid, mediation of contact with state administrative bodies and local authorities, administration of a business-property database, or administration of a database of Czech supplier firms²⁵.

The applicant can submit the application for the long-term residence permit for the investment purpose **only in person**²⁶. However, the MoI may conclude a public contract with an external services provider charged with the collection of applications for visas and residence permits (thus including the long-term residence permit for the investment purpose) and transferring them to relevant embassy of the Czech Republic. In this case, the applicant must personally lodge the application with the external services provider. This is according to Section 169d of Act No 326/1999 also considered as submitting of the application in person. The external services provider is the VFS Global company²⁷, however it provides assistance only with the applications for short-term visas in the following countries: Azerbaijan, Bahrain, India, Iran, Jordan, Kazakhstan, Kuwait, Lebanon, Oman, Philippines, China, Russia, Saudi Arabia, South Africa, Sri Lanka, Thailand, Turkey, United Arab Emirates, Ukraine, UK and Uzbekistan. Applications for the long-term residence permit for the investment

²⁵ CzechInvest website, available at <https://www.czechinvest.org/en/About-CzechInvest/About-Us>.

²⁶ Section 169d of Act No 326/1999.

²⁷ VFS Global website, available at www.vfsglobal.com. VFS Global is an outsourcing and technology services specialist for governments and diplomatic missions worldwide.

purpose can be made only at the relevant embassy of the Czech Republic.

1.3 MONITORING OF THE PROCEEDINGS AND THE AUTHORITIES INVOLVED

Act No 326/1999 does not set out any cap for the scheme nor does it establish a system of scrutiny by Parliament or other bodies. However, the Department and the Immigration Policy of the MoI keeps the statistics on the applications and decisions concerning all kinds of residence permits²⁸.

1.4 INFORMATION ON APPLICATIONS

Act No 326/1999 does not contain any obligation to disclose information about successful applicants nor is this information published in practice.

Act No 222/2012 introducing in Act No 326/1999 the long-term residence permit for the purpose of investment came into force only in August 2017 and therefore statistics are not available for the period 2012 – 2017. Consequently, the numbers provided for the requests for residence in the table below do not cover residence obtained through investment but the total number of requests for residence in general.

Year	Total no. of requests for residence	No. of requests for residence by investors	No. of successful applications	No. of turned down applications	Sources ²⁹
2012	16 689	N/A	N/A	N/A	Mol (Department of Asylum and Migration)
2013	17 667	N/A	N/A	N/A	Mol (Department of Asylum and Migration)
2014	18 673	N/A	N/A	N/A	Mol (Department of Asylum and Migration)
2015	22 483	N/A	N/A	N/A	Mol (Department of Asylum and Migration)
2016	27 201	N/A	N/A	N/A	Mol (Department of Asylum and Migration)
2017	40 022	0	0	0	Mol (Department of Asylum and Migration)

1.5 INFORMATION ON APPLICATIONS BY FAMILY MEMBERS

■ *Measures concerning residence permits granted to family members*

Section No 326/1999³⁰ lays down the **conditions for granting the long-term residence permit for the purpose of family reunification.**

The following family members of the holder of a long-term residence permit for the investment purpose can apply:

- the spouse,
- the minor child (under 18 years of age) or adult dependent child,

²⁸ Information gathered through consultation with national stakeholder (Ministry of the Interior, Department for Asylum and Migration Policy, competent authority, 12 March 2018).

²⁹ Information gathered through consultation with national stakeholder (Ministry of the Interior, Department for Asylum and Migration Policy, competent authority, 12 March 2018).

³⁰ Section 42a of Act No 326/1999.

- the minor child or adult dependent child of his/her spouse,
- the adopted minor child or the minor child in foster care of the holder of residence permit or of his/her spouse, or the minor child whose guardian is the holder of the residence permit or his/her spouse,
- solitary foreign nationals older than 65 years or, regardless of age, foreign nationals who are objectively unable to provide for their own needs on account of their state of health, where their parent or child is the holder of the residence permit.

No prior stay in the Czech Republic of the holder of a long-term residence permit for investment purposes is necessary. The above **family members can apply for family reunification as soon as the foreign national was granted the residence permit**³¹.

The applicant for the long-term residence permit for the purpose of family **reunification must submit the following documents**³² with their application: a travel document, proof of accommodation, one photograph, documentary evidence of the family relationship, parental consent or consent of any other statutory representatives or guardians with the residence of a child in the Czech Republic, proof of funds for the purposes of long-term residence (the aggregate monthly household income of the family after its reunification may not be lower than an amount stipulated by law), upon request an extract from the Penal register record, a medical report proving the fulfilment of conditions preventing spreading of infectious illnesses, and in the event of a positive processing of an application lodged with an embassy, a document on travel medical insurance.³³

Applications must be done **in the form prescribed by the MoI and submitted at the appropriate consulate**. If the applicant is already staying in the Czech Republic on the basis of a long-term visa or a long-term residence permit for another purpose (excluding a long-term visa or a long-term residence permit for exceptional leave to remain in the Territory), he may lodge his application **directly with an MoI CR office**.

The **fees for the application and for issuing of the long-term residence permit and its extension** are the same as in the case of the long-term residence permit for investment purpose.

The **validity** of the long-term residence permit for the purpose of family reunification is the same as for the holder of the long-term residence permit for the investment purpose (up to two years)³⁴ and may be **repeatedly extended** (on condition of the extension of the long-term residence permit for the investment purpose).

- *Statistical data on the number/percentage of successful applications for residence permits for family members*

Act No 222/2012 introducing in Act No 326/1999 the long-term residence permit for the purpose of investment came into force only in August 2017 and therefore statistics are not available.

³¹ Section 42a(6)(d) of Act No 326/1999.

³² Section 42b of Act No 326/1999.

³³ Section 42b of Act No 326/1999.

³⁴ Section 44(4)(c) of Act No 326/1999.

2 TYPE OF INVESTMENT³⁵

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
<p>A significant investment: an investment whereby shall be invested in the Czech Republic financial means amounting at least to CZK 750 000 000 (EUR 3 000 000) and at the same time the investment must create in the Czech Republic at least 20 jobs³⁶. These jobs are defined as jobs created in relation to making of the significant investment and where the employee has weekly working hours for period of making the significant investment (or for two years if the long-term residence permit for the investment purpose was granted for two years). In addition, the employee must be an EU national or his dependent.³⁷ The law does not specify in what the applicant must invest.</p> <p>A maximum of 60 % of the invested amount may be replaced by investment in other property (material and immaterial property including technological and informational knowledge, etc.) on condition that the benefit of property is for the applicant corresponding to the financial amount it replaces.³⁸</p> <p>The intention to make the significant investment (the business plan) must be credible and feasible and the significant investment must be beneficial for the Czech Republic as a whole, or for one of its regions or districts. The conditions for the credibility and feasibility of the intention to make the significant investment are the following:</p> <ul style="list-style-type: none"> ■ the aim of the business plan is adequate to the total volume of the invested financial means and to the time schedule for its implementation, ■ the business plan is based on the knowledge of local 	<p>The financial threshold is set out in the first column of this table.</p>	<p>All the checks of the investment criteria are carried out before the decision on the application for the long-term residence permit for the purpose of investment is delivered. The applicant must submit:</p> <ul style="list-style-type: none"> ■ A document demonstrating that the foreign national or the commercial corporation, of which the foreign national is a governing body, member of a governing body or of which such foreign national is a procurator or partner, has access in the Czech Republic to finances for implementation of significant investment. Such document must not be more than 30 days old on the date of lodging of the application. ■ Financial statements or similar documents containing the net profits of the applicant, commercial corporation and its controlling entity for the two calendar or accounting years preceding the date of lodging the application. ■ Upon request, proof of origin of the finances for implementation of the significant investment (tax return or, in the case of a natural person who is an employee, a document confirming income certified by the employer). ■ A statutory statement by the applicant that a 	<p>The competent authorities involved are described in Section 1 and points 1.1 and 1.2 of Section II above. The Mol must check that all requirements are satisfied and determine whether or not the residence permit can be issued. Both prior to issuing a decision granting the residence permit and prior to its extension the Mol mustl</p>

³⁵ For the purposes of this Table, the term ‘investment’ covers any pecuniary disbursement required as part of the process for obtaining residence under the investors’ residence scheme.

³⁶ Section 1(a) of Government Regulation No 223/2017.

³⁷ Section 42n(2) of Act No 326/1999.

³⁸ Section 1(b) of Government Regulation No 223/2017

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
<p>conditions, situation on the market and applicable legislation,</p> <ul style="list-style-type: none"> ■ the description of the technical and technological solution is not in principle materially wrong.³⁹ <p>The significant investment is beneficial for the Czech Republic or for one of its districts of municipalities it has no negative impact on the quality of life of the inhabitants and</p> <ul style="list-style-type: none"> ■ it falls under the branch which is not sufficiently represented in the area, ■ the products or services it offers are scarce or difficult to access, ■ the jobs to be created are suitable mainly for qualified persons or for people who are disadvantaged with regard to access to the labour market, ■ the investment has in the Czech economy an innovative character, and ■ it has potential to create other investment opportunities.⁴⁰ <p>The fees concerning the application process are the following:</p> <ul style="list-style-type: none"> ■ 1500 CZK (EUR 60 EUR) for lodging of the application for the long-term residence permit, ■ 1500 CZK (EUR 60) for lodging the application for the extension of the validity of the residence permit, ■ 1000 CZK (EUR 40) for issuing of the long-term residence permit, ■ 1000 CZK (EUR 40) for the extension of the long-term residence permit <p>The same fees apply also for the residence permit for the purpose of family reunification.</p>		<p>decision with effect similar to a bankruptcy decision has not been served either on the applicant, the commercial corporation or its controlling entity in the country of its hitherto operations.</p> <ul style="list-style-type: none"> ■ Documents proving ownership and origin of other assets to be invested (e.g. purchase contract) and an expert valuation of such assets. ■ A document proving that the foreign national/the business corporation is debt-free, (unless the applicant has not yet been in the Czech Republic). <p>The law does not provide which means of investment are to be used. If the investment involves a cash payment, Act No 254/2004 prohibits the cash payments of the amounts exceeding CZK 270 000 (EUR 10 000)⁴¹. This act does not provide any rules concerning the scrutiny of the origin of the payment.</p> <p>If the holder of the long-term residence permit for the purpose of investment applies for the extension of the validity of his residence permit, he must submit:</p> <ul style="list-style-type: none"> ■ a document that the foreign national/business corporation is debt-free, ■ a document that the foreign national or the commercial corporation proceed in line with the intent to make a significant investment, 	<p>request an opinion from the MIT on the credibility and feasibility of the intention to make the significant investment.</p>

³⁹ Section 42p(1) of Act No 326/1999.

⁴⁰ Section 42p(2) of Act No 326/1999.

⁴¹ Section 4 of Act No 254/2004 of 30 April 2004 on the Limitation of Cash Payments and Amending Act No 337/1992, the Tax Administration Act, as amended (*Zákon č. 254/2004 Sb., ze dne 30. dubna 2004 o omezení plateb v hotovosti a o změně zákona č. 337/1992 Sb., o správě daní a poplatků, ve znění pozdějších předpisů*), Chapter 83/2004, available at <https://zakonyprolidi.cz/cs/2004-254>.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
		<ul style="list-style-type: none"> an income tax bill of the holder of the residence permit/an income tax bill of the legal persons. 	

3 RESIDENCE PHASE

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
Successful applicants will obtain a long-term residence permit for investment purpose according to Section 42n of Act No 222/2017 in the form of a residence card under Section 117a of Act No 326/1999). The validity of such residence card is up to two years.	<p>The national law does not foresee checks on the fulfilment of the residence criterion. Unlike other residence permit, a document confirming availability of accommodation is not requested either during the application procedure for granting of the residence permit or for its extension. This means that the physical presence of the investor is not required during the duration of the residence permit.</p> <p>The successful applicant must collect his residence card at the Mol. If the applicant lodged his application with a</p>	<p>The competent authorities involved are Mol (the Department of Asylum and Migration) and The MIT.</p>	<p>The validity of the residence permit may be repeatedly extended, if the applicant still complies with the conditions for issuing the residence permit and if he proceeds in line with the intent to make the significant investment, namely if the investment proportionally corresponds to the length of stay in the Czech territory and to the extent of the investment to be made, or if the applicant already made the significant investment, he continues with the significant investment. For example, if according to the business plan CZK 75 000 000 (EUR 3 000 000) are to be invested within five years, and after two years the applicant applies for the extension of the residence permit, then on the basis of the mandatorily published annual reports it will be verified how the carrying out of the business plan proceeds and whether a financial amount proportionally corresponding to two years has already been invested.</p> <p>If the applicant requests the extension of the residence permit as a governing body, member of a governing body as a procurator or partner of the commercial corporation, his activity in the territory of the Czech Republic must continue to have significant influence on the business activities of the commercial corporation. The share of the applicant, who is a partner of the commercial corporation, must still correspond to the minimum share stipulated in Section 1(d) of Government Regulation No 223/2017 (30 %).</p>

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
	competent consulate, he will be granted a visa for a stay of over 90 days for the purpose of collecting a long-term residence permit for the investment purpose in order to enter the Czech Republic ⁴² .		<p>The applicant or the commercial corporation must be debt-free⁴³.</p> <p>In the procedure for the extension of the validity of the long-term residence permit for the purpose of investment the Mol will request an opinion from the MIT in order to verify the above facts.</p> <p>The period of extension corresponds to the period necessary to fulfil the purpose of the residence, with a maximum period of two years.</p> <p>The procedure is subject to the following fees:</p> <ul style="list-style-type: none"> ■ 1500 CZK (EUR 60) for lodging the application for the extension of the validity of the residence permit, ■ 1000 CZK (EUR 40) for the extension of the long-term residence permit.

4 DUE DILIGENCE CRITERIA AND SECURITY CONSIDERATIONS

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<p>Section 42n of Act No 222/2017 contains the conditions for granting the long-term residence permit for the investment purpose. The applicant must submit, upon request, a document similar to an extract from the Penal Register issued by the State of which the foreign national is a resident and also by the States where the foreign national has had continuous residence for over six months in the last three years. The extract from the Penal Register may be replaced by an affidavit, if the given State does not issue such a document.</p> <p>The applicant is not obliged to submit an extract from the Penal register of the Czech Republic, because the Mol is entitled to request it itself.</p>	Before the Mol issues decision on the application for the long-term residence permit it must check whether the conditions for granting of the residence permit are fulfilled. Thus, the check of compliance with the conditions includes also the due diligence and security checks as	The competent authority involved is the Mol.	The checks of the facts indicated in the first column are carried out before each renewal of the long-term residence permit for the

⁴² Section 42o(2) of Act No 326/1999.

⁴³ Section 44c(1)(a) of Act No 326/1999.

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<p>Section 46(8) of Act No 326/1999 specifies the reasons for refusal of granting the long-term residence permit for the investment purpose. These include the following:</p> <ul style="list-style-type: none"> ■ The fact that the foreign national was condemned by a final and conclusive judgment for committing an intentional crime (he does not comply with the condition of criminal integrity under S. 174 of Act No 326/1999). (S. 56(2)(a). ■ The applicant is a so-called undesirable person (S. 56(1)(c)⁴⁴ ■ Another EU Member State or other conventional State decided to expel the applicant because he was condemned to an imprisonment for at least one year or for a reasonable suspicion that he committed a serious crime or that he prepares such a crime in an EU Member State or in any other State Party to the convention concerning common procedure in the matter of expulsion or the applicant breached the legislation on the entry and residence in the Member States (S. 37(2)(e) of Act No 326/1999). ■ The stay of the applicant is not in the interests of the Czech Republic or there is another serious impediment to his stay in the Czech Republic (S. 56(1)(e) of Act No 326(1999). ■ The foreign national is entered in the Schengen information system a person who is prohibited to enter the territory of the Member States (S. 56(6) and S. 9(1)(g) of Act No 326/1999). ■ There is a reasonable danger that the foreign national could during his stay endanger the security of the State, seriously undermine public order or endanger the international relations of the Czech Republic (S. 9(1)(h) of Act No 326/1999)(for this reason the Police of the Czech Republic may enter the foreign national on the list of undesirable persons under S. 154 of Act No 326/1999). ■ There is a reasonable danger that the foreign national could during his stay in the Czech Republic endanger the security of another Member State, seriously undermine its public order or endanger the international relations of another Member State (S. 9(1)(i) of Act No 326/1999). 	<p>mentioned in the left column.</p> <p>The applications for the extension of the long-term residence permit for the investment purpose are subject to the same checks. Thus, these checks are carried out in the beginning of the application process and then every two years (the validity of the residence permit is limited to two years with the possibility of extension).⁴⁵</p> <p>The Mol will turn down the application for the long-term residence permit for the investment purpose for any of the reasons mentioned in the previous column. . These are also reasons for turning down the application for the extension of the long-term residence permit for the investment purpose⁴⁶.</p>		<p>investment purpose. However, so far no application for the long-term residence permit for the investment purpose has been submitted in the Czech Republic.⁴⁷</p> <p>No information on cases of misuse associated with corruption and fraud has been found.</p>

⁴⁴ According to Section 154 of Act No 326/1999 an undesirable person is a person who cannot enter the territory of the Czech Republic on the ground that the foreigner may, during his stay in the Czech Republic, endanger the security of the State, seriously undermine public order, endanger public health or protection of the rights and freedoms of others or endanger similar interests protected on the basis of an obligation arising from an international treaty.

⁴⁵ Section 42n and Section 44c of Act No 326/1999.

⁴⁶ S. 35(3), S. 37 and S. 46(8) of Act No 326/1999.

⁴⁷ Information gathered through consultation with national stakeholder (CzechInvest – Investment and Business Development Agency, a contributory organisation of the MIT, competent authority on investment issues, 15 March 2018).

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<ul style="list-style-type: none"> ■ He does not meet the requirements of the Ministry of Health to prevent introduction of an infectious disease pursuant to the Act on the Protection of Public Health (S. 9(1)(j) of Act No 326/1999. <p>The last four reasons are also reasons for refusal of entry of the foreign national to the territory of the Czech Republic by the Police of the Czech Republic according to Section 9 of Act No 326/1999.</p> <p>With regard to the verification of the origin of financial means invested, the applicant is obliged to submit with his application the following documents:</p> <ul style="list-style-type: none"> ■ Financial statements or similar documents containing the net profits of the applicant, commercial corporation and its controlling entity for the two calendar or accounting years preceding the date of lodging the application. ■ Upon request, proof of origin of the finances for implementation of the significant investment (tax return or, in the case of a natural person who is an employee, a document confirming income certified by the employer). ■ Documents proving ownership and origin of other assets to be invested (e.g. purchase contract) and an expert valuation of such assets. 	<p>As regards other criteria or databases checked as a part of due diligence, no additional information could be found.</p>		

III. RIGHTS GRANTED BY THE PERMITS

1 RIGHTS GRANTED TO INVESTORS

The holder of the long-term residence permit for the investment purpose has the **right to work on condition that he has a valid work permit** issued by the Labour Office and a valid residence permit, as indicated in S. 89(5) and (2) of Act No 435/2004⁴⁸. Section 16(1) of Act No 262/2006 ensures equal treatment of all employees with regard to working conditions (including health and safety at the work place) as well as remuneration for work. Under Section 27 of Act No 2/1993 the holders of the long-term residence permit for the investment purpose enjoy the freedom of association for the protection of economic and social interests, including trade unions. If the investor is employed in the Czech Republic, Act No 18/2004 provides for the recognition for his professional and other qualification obtained in in another Member State of the European Union, in another contractual State of the European Economic Area or in the Swiss Confederation. Investors in an employment relationship are also participate in the insurance for the the case of old age, invalidity and death of the breadwinner⁴⁹ Investors also have access to health insurance and sickness and maternity benefits⁵⁰

Investors can **access self-employment** under Section 5(2) and 5(5) of Act No 455/1991⁵¹ under the same conditions as a Czech national, however they have to submit a proof of a long-term residence permit.

2 RIGHTS GRANTED TO THE INVESTORS' FAMILY MEMBERS

Family members of a holder of a long-term residence permit for the investment purpose, who were granted the long-term residence permit for the purpose of family reunification have the **right to work** in the Czech Republic without a work permit⁵². Section 16(1) of Act No 262/2006⁵³ ensures equal treatment of all employees with regard to working conditions (including health and safety at the work place) as well as remuneration for work. Under Section 27 of Act No 2/1993⁵⁴ family members of the holders of the long-term residence permit for the investment purpose enjoy the freedom of association for the protection of economic and social interests, including trade unions. If the family member is employed in the Czech Republic, Act No 18/2004⁵⁵ provides for the recognition for his professional and other qualification obtained in another Member State of the European Union, in another

⁴⁸ Act No 435/2004, of 13 May 2004, the Employment Act (*Zákon č. 435/2004 Sb., ze dne 13. května 2004, o zaměstnanosti*), Chapter 143/2004, available at <https://zakonyprolidi.cz/cs/2004-435#cast4>.

⁴⁹ Section 1(1) of Act No 155/1995, of 30 June 1995, on the Pension Insurance (*Zákon č. 155/1995 Sb., ze dne 30. června 1995, o důchodovém pojištění*), Chapter 41/1995, available at <https://zakonyprolidi.cz/cs/1995-155#cast1>.

⁵⁰ Section 5 of Act No 187/2006, of 14 March 2006, on the Sickness Insurance (*Zákon č. 187/2006 Sb., ze dne 14. března 2006*), Chapter 64/2006, available at <https://zakonyprolidi.cz/cs/2006-187>.

⁵¹ Act No 455/1991, of 2 October 1991, on Trade Licensing (*Zákon č. 455/1991 Sb., ze dne 2. října 1991, o živnostenském podnikání*), Chapter 87/1991, available at <https://zakonyprolidi.cz/cs/1991-455>

⁵² Section 98(1) of Act No 435/2004.

⁵³ Act No 262/2006, of 21 April 2006, the Labour Code (*Zákon č. 262/2006 Sb., ze dne 21. dubna 2006, zákoník práce*), Chapter 84/2006, available at <https://zakonyprolidi.cz/cs/2006-262>.

⁵⁴ Resolution No 2/1993, of 16 December 1992, on the Declaration of the Charter of Fundamental Rights and Freedoms as a Part of the Constitutional Order of the Czech Republic (*Usnesení č. 2/1993, ze dne 16. prosince 1992, o vyhlášení Listiny základních práv a svobod jako součásti ústavního pořádku České republiky*), Chapter 1/1993, available at <https://zakonyprolidi.cz/cs/1993-2>.

⁵⁵ Act No 18/2004, of 10 December 2003, on the Recognition of Professional Qualification and Other Qualification of Nationals of Member States of the European Union and Some Nationals of other States and Amending Some Acts (Act on the Recognition of Professional Qualification) (*Zákon č. 18/2004 ze dne 10. prosince 2003, o uznávání odborné kvalifikace a jiné způsobilosti státních příslušníků členských států Evropské unie a některých příslušníků jiných států a o změně některých zákonů (zákon o uznávání odborné kvalifikace)*), Chapter 7/2004, available at <https://zakonyprolidi.cz/cs/2004-18>.

contractual State of the European Economic Area or in the Swiss Confederation. Family members in an employment relationship are also participate in the insurance for the the case of old age, invalidity and death of the breadwinner⁵⁶ They have also access to health insurance and sickness and maternity benefits⁵⁷, to unemployment benefits⁵⁸, if they were in an employment relationship for at least 12 months, as well as to services provided to unemployed persons by the Labour Office⁵⁹.

They can also **access a self-employed activity** under Section 5(2) of Act No 455/1991.

They also have **access to education** (basic education, institutional education and protective education, secondary education, tertiary professional education, including institutional education and protective education, pre-school education, basic artistic education and language education and school services under the Education Act⁶⁰. Moreover, they also have the right to meals provided at schools and the right to access school clubs organised by schools⁶¹.

3 OTHER BENEFITS

Czech legislation does not grant other benefits to the holders of the long-term residence permit for the investment purpose and their family members, who are holders of the long-term residence permit for the purpose of family reunification. There are no special tax advantages attributed to investors.

⁵⁶ Section 1(1) of Act No 155/1995.

⁵⁷ Section 5 of Act No 187/2006,

⁵⁸ Section 2(1)(i) of Act No 435/2004.

⁵⁹ Section 8a(1) of Act No 435/2004.

⁶⁰ Act No 561/2004, of 24 September 2004, on Pre-school, Basic, Secondary, Tertiary Professional and Other Education (the Education Act) (*Zákon č. 561/2004 Sb., ze dne 24. září 2004, o předškolním, základním, středním, vyšším odborném a jiném vzdělávání (školský zákon)*), Chapter 190/2004, available at <https://zakonyprolidi.cz/cs/2004-561>

⁶¹ Section 20 of Act No 561/2004.

IV. INTERACTION BETWEEN RESIDENCE AND CITIZENSHIP SCHEMES

The conditions for granting Czech citizenship are laid down in Act No 186/2013⁶². According to this act, holders of the long-term residence permit for the investment purpose do not have direct access to the naturalisation procedure under Section 11 onwards of Act No 186/2013. In order to apply for Czech citizenship, the applicant must be a holder of a permanent residence permit in the Czech Republic under Section 68 of Act No 326/1999. A foreign national may obtain the permanent residence after five years of continuous residence in the Czech Republic. If the foreign national resided in another Member State of the EU as a holder of the EU residence card, the period of his residence is also included in the five years of continuous residence in the Czech Republic.

Citizenship may be granted to an applicant who has held, on the day of application, a permanent residence permit for an uninterrupted period of:

- at least five years,
- at least three years if it concerns an applicant, who has been an EU Member State citizen for a period which, together with the previous residency on the territory of the Czech Republic amounts to at least 10 years.

These periods of residence may be reduced by half, if the applicant resided continuously in the Czech Republic and the period of his absence did not exceed two months, or six months in specified cases (pregnancy, childbirth, serious sickness, study, professional training, or a business trip).⁶³

The conditions for granting Czech citizenship are⁶⁴:

- The applicant was never found guilty of a negligent crime and sentenced to imprisonment or found guilty of a crime.
- The applicant resided in the Czech Republic for 10 years.
- In the last 10 years, the applicant was not in the country of which he is a citizen, found guilty of a negligent crime and sentenced to imprisonment or found guilty of a crime (unless the applicant was granted international protection in the form of asylum or supplementary protection).
- The applicant must prove knowledge of the Czech language.
- The applicant must show an elementary knowledge of the Czech constitutional system and cultural, geographical, and historical facts pertaining to the Czech Republic.
- In the past three years, the applicant has not substantially breached their responsibilities deriving from Act No 326/1999 on the Residence of Foreign Nationals, the public medical insurance scheme, social insurance scheme, pension insurance scheme, employment, taxes, duties, levies, and schemes, alimonies to a child residing permanently in the Czech Republic, or public law responsibilities to the municipality in which they are registered for residency.
- For the period of three years prior to the application, the applicant must prove their income and their source of income, document to have declared import of valuables when crossing the borders, or have received wireless transfer of money from abroad and have paid due tax from their declared income.
- For the period of three years prior to the application, the applicant did not substantially and without any due reason burden the welfare system or the system of community care for persons suffering financial hardship. Burdening of the welfare system or the system of community care for persons suffering financial hardship is understood as the applicant's major dependence on the welfare scheme or provisions from system of community care for persons suffering financial hardship, unless it concerned a person, who is not capable of earning money for their poor health,

⁶² Act No 186/2013, from 11 June 2013, on Citizenship of the Czech Republic and on the amendment of selected other laws (the Czech Citizenship Act), (*Zákon č. 186/2013 Sb., ze dne 11. června 2013, o státním občanství České republiky a o změně některých zákonů (zákon o státním občanství České republiky)*), Chapter 77/2013, available at http://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=186/2013&typeLaw=zakon&what=Cislo_zakona_smlouvy.

⁶³ Section 14(2) of Act No 186/2013.

⁶⁴ Section 14(3) of Act No 186/2013.

student or trainee status, maternity or parental leave or permanent care for a person, who is dependent on such care.

As specified in Section 12 of Act No 186/2013, there is no legal title to the citizenship of the Czech Republic.

Pursuant to Section 16 of Act No 186/2013 the citizenship of the Czech Republic may also be granted for the reasons of significant benefit to the Czech Republic. The conditions are that the applicant has a permanent residency in the Czech Republic and his citizenship of the Czech Republic would be of substantial benefit to the Czech Republic for the reasons of the applicant's capacity in science, education, or sports, or should it help the Czech Republic to fulfil its international obligations, or is otherwise in the public interest. Act No 186/2013 specifies the documents to be submitted together with the application for the naturalisation.

The MoI decides on granting the citizenship of the Czech Republic at the latest 180 days after the day of receiving the application⁶⁵. The successful applicants become Czech citizens on the day they take the Oath of Citizenship⁶⁶.

Act No 222/2012 introducing in Act No 326/1999 the long-term residence permit for the purpose of investment came into force only in August 2017 and therefore no statistics on the number of third-country nationals who obtained citizenship on the basis of this residence permit are available.

⁶⁵ Section 23(1) of Act No 186/2013.

⁶⁶ Section 27 of Act No 186/2013.

V. ECONOMIC AND FINANCIAL EFFICIENCY OF RESIDENCE PERMITS FOR FOREIGN INVESTORS

Czech legislation does not establish any mechanism to monitor the economic impact and financial revenues of investors who have been granted the long-term residence permit for the investment purpose. Act No 222/2017 introducing the long-term residence permit for the investment purpose came in force only on 15 of August 2017. So far, no application for the long-term residence permit for the investment purpose has been submitted. Thus, there are no statistics yet which would enable to evaluate the economic and financial efficiency of this residence permit.

The investor's residence presumes that the applicant has an economic benefit as long as he complies with the conditions for granting of the residence permit:

- the applicant is a natural person – entrepreneur, or a partner of a business corporation with a share of at least 30%, a member of a governing body or a procurator of a business corporation whose activity will have a significant influence on business activities of the business corporation (the maximum number of the members of the business corporation is five).
- the intent to carry out the significant investment (the business plan) in the Czech Republic. The significant investment is defined as investment of financial means of at least CZK 75 000 000 (EUR 3 000 000) and at the same time creation of at least 20 jobs. A maximum of 60% of financial means may be replaced by other property.
- the intent to carry out the significant investment (the business plan) must be credible and feasible and the investment must be beneficial for the Czech Republic as a whole, or one of its regions of municipalities.
- the applicant has financial means to carry out the investment, which are deposited on an account kept in one of the EU Member States or in another EEA Member State, and is able at request to prove their origin.
- the applicant, who already resided in the Czech Republic is debt-free.

The evaluation of the business plan is to be done in advance. The number of jobs created and the amount of invested financial means during the two-year period (the residence permit for the investment purpose is granted for two years) may be monitored via obligatory publication of annual reports.

The MIT evaluates the credibility and feasibility of the business plan, its benefit for the Czech Republic, one of its regions or municipalities on the basis of the submitted business plan. The following facts are to be assessed: whether the objectives of the business plan are proportionate to the amount of invested financial means and to the time schedule, whether the business plan is based on the knowledge of local conditions, legislation and job market and technological solutions are not in principle materially wrong.

During the renewal of the long-term residence permit for the investment purpose the monitoring is done in line with Section 44c of Act No 326/1999, that is, the applicant must still satisfy the conditions for granting the long-term residence permit for the investment purpose. It is also assessed whether the degree of realisation of the investment proportionally corresponds to the length of the residence and the applicant proceeds in accordance with the business plan. If the applicant requests the extension of the residence permit as a governing body, member of a governing body as a procurator or partner of the commercial corporation, his activity in the territory of the Czech Republic must continue to have significant influence on the business activities of the commercial corporation. The share of the applicant, who is a partner of the commercial corporation, must still correspond to the minimum share stipulated in Section 1(d) of Government Regulation No 223/2017 (30 %).⁶⁷

⁶⁷ Information gathered through consultation with national stakeholder (CzechInvest – Investment and Business Development Agency, a contributory organisation of the MIT, competent authority on investment issues, 15 March 2018).

Since no long-term residence permit for the investment purpose has been granted so far, it was not possible to assess whether the objectives are adequate compared to the actual outcomes.