

Long-term residence permit for the purpose of study in the Czech Republic

Abstract

Long-term residence permit for the purpose of study is permitted by the Ministry of the Interior to the third-country nationals who intend to stay in the Czech Republic for more than 1 year. The fundamental legal regulation governing long-term residence is act No. 326/1999 Coll., On the Residence of Foreign nationals in the Czech Republic and on amendment of certain acts, that is transposing Directives of the European Union on which is this residence based. The case law of the Czech administrative courts, the Constitutional Court and the Court of Justice of the European Union cannot be omitted since it is important source.

Firstly, is the master's thesis devoted to the concept of foreigners, in order to clearly specify for which category of foreigners is the long-term stay intended to and what area of law deals with it. Subsequently, the Directive 2004/114/EC, which is the basis of a valid and effective regulation of the study stay, is being analysed along with the Directive 2016/801, which will be transposed into the Czech legal system by an amendment to act No. 326/1999 Coll., which is at the time of submitting the master's thesis at the stage of the government's draft, waiting for the first reading in the Chamber of Deputies. When dealing with the directives, the judgments of the Court of Justice of the European Union have been summarized to explain the ambiguous provision of the Directive. Long-term residence permit for the purpose of study is based on Directives, and therefore, along with the case law of the Court of Justice of the European Union, they are important interpretative guidelines for the interpretation of act No. 326/1999 Coll. for national administrations and administrative courts.

The master's thesis also point out the importance of the obligation of foreigners to continuously and effectively fulfil the purpose of their stay, as evidenced by the decision-making practice of the administrative courts. If the state regulates entry and stay in its territory, one of the conditions must be to fulfil the purpose for which the entry and stay were permitted. Possible consequences of breach of this obligation may be non-renewal, cancellation or non-grant of residence. Later, the different types of study are characterized and alternative options to allow a stay in the territory for study purpose are being explored.

The next part of the master's thesis deals with the administrative procedure in the first instance, which aims to issue a permit or to decide not to grant a residence. The conditions of filing of the application and its requirements are analysed, as well as further proceeding of the administrative authorities, which is to lead to establishing the real state of affairs about which no grounds for doubts exist. Attention is also paid to the reasons of discontinuance of proceedings or rejection of the residence permit.