

THE STORY



CTK

In the (Schengen) zone

All foreign nationals are equal, theoretically, but some are less equal than others. Non-Czechs living in the Czech Republic knew that when the country entered the Schengen area of visa-free travel last year, it would make them toe the line on immigration matters.

BY BRYN BAILER

What they didn't know is that it would also restrict their free movement around Europe. What other nasty surprises are in store? So many

questions, so few answers. That's the feeling many affected people complain of when trying to negotiate their way through the vagaries of the expanded zone.

Following the Czech Republic's entry into the area in Dec. 21, 2007, and after months of "stampedes" at Prague embassies from people who live

and work in the Czech Republic illegally—involving desperate applications for visas that would prevent an applicant from being deported or from having their job endangered—holders of new visas are learning just what benefits their document provides ... and what it doesn't.

"It is quite a complicated issue," said Šárka Machotková, a civil servant in the Ministry of Interior department that handles asylum and migration issues. "Even though there are some clear rules, there are lots of unclear rules that are [themselves] open to different interpretations and practices. ... This round of Schengen enlargement has pointed out some issues that were not perceived as an issue before."

One of the issues is that non-European foreign nationals who wish to reside in the Czech Republic—such as Americans or Canadians—have to spend nearly one year on Czech territory with a Czech national long-term or so-called type

"D," visa before obtaining a long-term residence permit. They enjoy fewer possibilities to travel among other Schengen states than their expat brethren living in some other Schengen states that issue residence permits after spending a shorter period of time on their territories.

"While the long-term visas are in national competence, the European Union legislation does not unify rules for long-term stays, which causes different practices applied by different states. At a recent meeting of national experts and the European Commission on visa-related issues, these issues were discussed and indicated a possibility for a common approach that is currently being analysed by all member states," according to Machotková's colleague Daniela Kortišová, who returned last week from Brussels.

"The commission presented their interpretation on the possibilities for movement within the Schengen area with a long-term visa," Kortišová said.

Under the so-called Schengen Convention, passport checks are not carried out when crossing internal borders between the 24 states of the Schengen area. At the external borders, immigration authorities are obliged to check travelers from third countries against the Schengen Information System, a computerized government data bank containing data on certain persons and objects, for example, unwanted persons.

The only clear-cut issue amid long-term type "D" visa holders is that they do not have carte blanche to travel through the theoretically borderless Schengen states until they are granted a long-term residence permit. This may change with the new commission's interpretation.

In fact, most holders of that particular type visa—also called a "long-term national" visa—are currently essentially "trapped" in the Czech Republic for months, unless they can return from the territory of a

non-Schengen country to the Czech Republic in five days, obtain a short-stay Schengen visa in any nation they want to visit for a longer period of time, or obtain a long-term residency permit. The latter is a document they cannot apply for until their one-year type "D" visa is 120 days from its expiration.

"There was a tremendous panic, that was well illustrated," said Samuel H. Fleischman, director of international insurance brokerage house **Hamilton Hudson**. His company's international clientele doubled in the past six months, he said, as uninsured expats, many living as "permanent tourists" on perennially renewed, three-month tourist visas, scrambled to get the necessary health insurance for the national visa application.

Under the new system, third-country nationals who are "visa-free" for short stays could only reside in Schengen states for three months in a six month period without any visa in case they stay for tourist

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purposes. After that time period, they would need to leave the country and reside in a non-Schengen nation, such as Romania or Ukraine. Overstaying a visa-free period, or worse, living and working here without a visa, could result in fines, arrest, deportation and ban on entering Schengen states in the future.

A rude awakening

Now that the desperation has died down, some disappoint-

ment is setting in as expats realize just what protection their visas offer, and what restrictions they have also bought into. Also rising are the levels of frustration at what many expats perceive as an unnecessarily complex, lengthy process to apply for a residency permit. With that hard-to-obtain immigration document, a person can travel freely throughout Schengen states.

"There are too many contradictions, too many misun-

derstandings, and too much of a knowledge gap," Fleischman said. "And there are a lot of contradictions going on between the Czech Republic and the European Union and they're not bothering to iron them out."

While some states issue residency sooner, the Czech Republic does not, Machotková said. "In general, a foreign national holding a long-term visa has to be living in the Czech Republic for nearly one year before

applying for a long-term residence permit, and you cannot apply earlier than 120 days before the expiration of the 'D' visa," Machotková said. "We have raised this issue at the European Union level. ... If you want to institute any changes in Czech law, it will take a long time."

Those foreign nationals who follow Czech legislation and live in the Czech Republic for a longer time, and who are in possession of a residence per-

Getting legal: A tumultuous tale of blood, sweat and, yes, tears

No good deed goes unpunished.

At least, that's how it felt as I sweltered in the infamous, grim, gray waiting room of the Foreign Police Office on Koňeuvá street in Prague 3, along with some 250 other foreign nationals attempting to get in compliance with the law in the shadow of the Schengen Agreement.

Months' worth of slogging through a bureaucratic nightmare—gathering reams of permits and papers, getting notarized signatures, procuring translated copies of legal documents, obtaining a criminal record check (twice, since I moved during the process), flying to London to apply, then to pick up my long-term residency visa, not to mention the steep visa fee itself—had finally come down to this day. The day that I presented my hard-won new visa to the Foreign Police for validation.

Or at least tried to. Warned that I might want to get my happy little backside in line outside the office in the wee hours of the morning—one person with a straight face suggested 2:30 a.m.—I nonetheless chose to show up at 7:30 a.m., when the office opens its doors. I was prepared to wait, and had brought along a book ("Alice's Adventures in Wonderland," appropriately enough) in anticipation of that fact. After all, waltzing with bureaucracy is part of the whole Czech experience.

For better or worse, my approach to life's setbacks tend to be rather laid back. If I can get an amusing cocktail party story out of an uncomfortable brush with authority, a dinner date from hell, an interview gone south, or doin' hard time with other non-European Union souls marinating in a frothing broth of Grade A bureaucracy ... it was all worth it. Plus, it's fodder for a column. Basically a lose-win situation.

The nightmare in a nutshell

You've read all about the long lines and less-than-friendly service at the Foreign Police, so I'll sum it up briefly. In line at 7:30 a.m. Through the doors at 8:30 a.m. (Ticket # 605.) Computers crash at 11 a.m. Computers back up at 2 p.m. Abandoned the uncomfortably hot seating area at 4 p.m. Crowded into the standing-room only cattle-chute of document supplicants, at 4:10 p.m. Number called at 5:37 p.m. Ran screaming from the building sometime around 5:50 p.m., validated visa in hand.

All along the way, during the many months leading up to this day, I had brought along a ream of just-in-case documents: birth certificate, diploma from the University of Arizona, passport photos (fortunately, since the Czech Embassy in London neglected to tell me they were required), travel insurance documents, photocopies of my work permit, my driver's license and my lease. I was told I didn't need to present proof of insurance when I picked up my visa, or when I got it validated, so I decided to travel light that day, but as it turns out ... the last step, the Very Last Step, the final seconds before the approval stamp hits paper ... requires presentation proof of travel insurance.

But of course.

So there I was, at the service window that I had waited 10 hours to get to, after hours and weeks and days of chafing from agency to agency ... yadda-yadda-yadda ... and I was about to be turned down flat because of one thin sheet of paper.

"I have travel insurance," I told the guy at the window. "I just didn't print it out. They told me I didn't need it." But he wasn't budging.

One stamp from deliverance

Finally—with the office set to close in 15 minutes, my eyes brimming, and the

sinking feeling that I would indeed need to come back tomorrow with that last sweat-stained, tear-stained document—he gave me the stamp. I was finally legal.

I know what some of you are saying. "Well, aren't you just the little princess, you spoiled, overprivileged American brat!" (OK, so maybe that's not what you were planning to say. But you were thinking it.) "You could have done this earlier. You were trying to cheat the system and got caught. You deserve every torturous detail, and every hurdle, and every steep expense that reared up at you. And by the way, your president really sucks."

While I'm inclined to agree on the latter issue, this piling-on-Americans thing that I hear in trendy cafés and whiny online chat rooms has gotten beyond tired.

My brother is a law-enforcement officer. I reported about crime issues in the States, and worked at a police department as well. I know about legal issues, and have little patience for those who don't play by the rules.

But my progress was hindered—blocked, actually—from the very beginning. My first landlord (a musician and borderline misogynist who only identified himself as David, probably because he was illegally renting his his spacious flat in Nusle) refused to give me a printed lease. I requested. Suggested. Eventually pleaded, but he wouldn't relent. And he ended up evicting me because I wouldn't let it lie.

OK, so I am a little bitter. Trust me, you'd be, too.

In the end, though, I found a newly refurbished flat on three tram lines, with a green courtyard and a nice landlord who gave me a lease without my having to ask. And with that document, guidance from our office manager, help from the Internet, and an airline that shall remain nameless, and lots and lots of running around ... I became as one with the im-

migration law, two weeks ago. But it wasn't easy. It wasn't pleasant. And it was such a dispiriting experience that I can see why people are willing to cheat the system. It shouldn't be so hard to Do the Right Thing. But in the land of Kafka, a lot of things just don't make sense.

Not in Kansas anymore

As a postscript, I shouldn't neglect to mention that, to add insult to injury, my new visa restricts me to just five travel days through Schengen states back to Czech territory, unless I apply for territorially limited one- or multiple-entry visas for each country I plan to visit. Disrespect that rule, and fines, deportation, arrest and a potential ban on reentry to Schengen states wait just around the corner.

Just to head off forthcoming Letters to the Editor: I know I'm not in Kansas anymore. I know I have to play by the local team's rules. I know that Schengen promotes a unified Europe. I know that it is a legal buttress to European Union economic power. But the new rules mean countless Americans, non-EU Europeans, Australians and other "third country nationals" are essentially trapped here, when it comes to travel throughout Europe. Not just for pleasure traveling, but also for business travel. I've already had to tell my editors I couldn't accept a story because it involved travel outside the nation. Yes, I've got the message—it is a brave new Eurocentric world, and if you don't like it ... Don't let the Schengen door hit you in the rear on the way out. But aren't things being taken just a little too far? Or maybe the big, red stamp on my visa—the one featuring the official two-tailed Bohemian lion—should include an additional message printed below. "Welcome to the Czech Republic. Now sit down and be quiet."

—Bryn Bailer is a staff writer with CBW from Arizona, U.S.—

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Toward that end, diplomatic channels are also apparently looking into the issue.

"We are particularly concerned that many Americans are affected by the limitations of the 'D' visa on Schengen travel after their first 90-day period [of residing in the Czech Republic]," said Victoria H. Silverman, first secretary for press affairs in the U.S. Embassy.

"The embassy is working with the Czech Ministry of the Interior and the Ministry of Foreign Affairs on this issue, urging changes in Czech law that would either grant residency in place of the long term 'D' visa [allowing for free travel in Schengen area] or making the 'D' visa a Schengen visa itself," she said in a prepared statement. "We understand that these changes will require legislative approval, and are hopeful that the Czech government will take the appropriate action as soon as possible."

The Ministry of Labor and Social Affairs did not respond to e-mailed questions from *CBW*. The Ministry of Foreign Affairs referred us to the Ministry of Interior.

One local attorney was candid about the confusion. "Long-term visa issuance policy is not harmonized under the Schengen system," said Adéla Krbcová, an attorney for the Prague law office of **Peterka & Partners**. "Consequently, it is up to each state to decide to issue a residence permit without time restrictions for all foreigners intending to stay in the particular state for more than three months." "The Czech Republic is not willing to issue residence permits directly [and] an applicant for such a residence permit must already hold a long-term visa," she added. "Nevertheless, in conformity with Schengen regulations, a holder of a long-term visa is entitled to travel to other Schen-

gen countries only if they apply for a territorially limited visa with one or multiple entries for the country concerned."

The waiting time for such a visa is between two and 10 days, Krbcová said. Her firm has helped clients with a range of immigration law concerns, including preparation of visa applications and work permits.

Others interviewed for this story directly questioned the wisdom of setting up lengthy, confusing immigration poli-

cies that might well drive foreign talent away.

"Increased ease of travel for Europeans within the Schengen zone is clearly a positive for member nations' economies; lower travel costs and fewer regulations and delays will lead to increased business and greater integration resulting in economic expansion," said Benjamin Powell, an assistant professor of economics at Suffolk University, in the U.S. state of Massachusetts. "However, these

beneficial aspects should not have been bundled with regulations that make it harder for non-Europeans to move between Schengen zone," he cautioned. "Member countries' economies benefit when their labor force is more mobile and flexible—whether that labor force consists of native-born Europeans or foreigners."

Making the Czech Republic a hostile place to work would end up harming the nation in the long run, as a similar poli-

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cy did in the United States, noted Alex Tabarrok, director of research for the Independent Institute, a nonprofit, nonpartisan think tank headquartered in Washington, D.C., and a professor in the economics department at George Mason University, in Virginia, U.S.

"We are not as welcoming to foreigners as this nation used to be," Tabarrok said. "Since 9/11, the U.S. has restricted all kinds of visas, and that has been quite damaging to high-tech industries in particular. In fact, Europe has benefited at the United States' expense: Because of all these restrictions, the U.S. is not seen as the best place in the world for a higher education. ... The 'American

Dream' in some ways is being moved to Europe, such as Britain or Germany."

Green card aspirations

One approach that Czech lawmakers are considering in order to keep highly skilled workers flowing into, and staying in, the Czech Republic is the possible creation of a so-called "green card" for foreign employees. As envisioned, it would be issued to workers who did not hold a Czech Type "D" visa, and it would function like a long-term residence permit, a document currently only available to people who have lived in the Czech Republic more than one year. The holder of a type "D" visa will also be allowed to

apply. "A green card is intended to be a special type of long-term residence permit for specific cases of foreign employees," Krbcová said in an e-mail. "On the basis of a green card issued within 30 days of an application, its holder will be entitled to stay and work in the Czech Republic for up to three years, and will enjoy similar rights as the holders of the currently issued long-term residence permits regarding movement within the Schengen area."

The entire immigration brouhaha may be maddening, but does have financial rewards, said Fleischman, a native New Yorker who became a permanent resident in the Czech Republic nearly one year ago, after five years of living here legally. Health insurance companies benefit because visa applicants must be able to prove that they have medical insurance coverage, he said. And coverage comes at a price. At Hamilton Hudson, for example, health insurance policies can cost on average between Kč 15,000 (€595) and Kč 25,000 per year, depending on the

plan. "As you get more people into the system, the Czech Treasury benefits," he added. "They do charge Kč 1,000 for a visa, and documented people pay taxes. The economy benefits slightly because of costs incurred by processing this paperwork. Many companies hire visa services for their employees, to get them legal. There are companies that charge thousands of crowns to handle the details, and that is also money pumped into the economy."

On the other hand, the change isn't likely to result in significant economic damage, if any, Fleischman said. "Tourists from Western countries will still be tourists, as they have been before; that sector will not be affected," he said. "Cross-border business transactions—I don't see an effect there. The only detrimental effect will be some expats who leave the country in frustration, but I don't think they are major contributors to the country, because they would have had their own visas already." ■



Jakub Stadler

Adéla Krbcová attorney for the Prague law office Peterka & Partners.

Which countries are part of the Schengen area?

Schengen members have signed and implemented a treaty permitting free movement within the group. These nations no longer staff immigration checkpoints at national borders. The treaty was first signed in 1985 by Belgium, France, Germany, Luxembourg and the Netherlands, but it took 10 years for the founders to implement the policy.

Implemented treaty in 1995: Belgium, France, Germany, Luxembourg, the Netherlands, Portugal, Spain

Implemented treaty in 1997: Austria, Italy

Implemented treaty in 2000: Greece

Implemented treaty in 2001: Denmark, Finland, Iceland, Norway, Sweden

Implemented treaty in 2007: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia

In the process of implementing the treaty: Bulgaria, Cyprus, Switzerland, Liechtenstein and Romania.

Source: Compiled by CBW from EU sources.

Types of Schengen Visa

A visa conveys permission for a noncitizen to travel to, enter, transit through or stay in a foreign country. There are several categories of visa:

Category A ("Airport Transit Visa"). Allows passing through the international transit area of airports during a layover flight or transfer between two sections of an international flight.

Category B ("Transit Visa"). Allows foreign nationals who are not visa-free to travel from one non-Schengen nation to another non-Schengen state, in order to pass through the Schengen area. Each transit may not exceed five days.

Category C ("Short-Term Stay Visa" or "Business Visa") Entitles holders to stay up to 3 months within any half year from first date of entry to that nation.

Category D ("National visa" or "Long-Term Stay visa"). Allows the visa holder who wants to stay for more than 90 days to transit from a non-Schengen country to the Schengen state which issued the national visa within five days. The holder must obtain a residence title after arrival in the destination country (or a different type of visa), before he or she is allowed to travel again to other Schengen countries. They are only valid for the country of issue.

Category D+C ("National Visa and Schengen Travel Visa") Allows the holder to enter the issuing Schengen state for long-term stay, but also to travel in the Schengen area like a holder of a Category C visa.

Source: Compiled by CBW from *Euroskop.cz*, *Invest in Germany*, *International Air Transport Association* and other sources.