

Facilities for Detention of Foreigners

Zařízení pro zajištění cizinců

1. What are facilities for detention of foreigners?

Facilities for detention of foreigners (hereinafter the “facilities”) serve to restrict the freedom of foreigners on the basis of a decision of the Police of the Czech Republic (hereinafter the “Police”) or the Ministry of the Interior of the Czech Republic (hereinafter the “Ministry”).¹ The conditions for detainment are governed by the Residence of Foreign Nationals Act. Facilities for detention of foreigners are operated by the Refugee Facilities Administration of the Ministry of the Interior of the Czech Republic (hereinafter the “Refugee Facilities Administration”). The Police provide mainly for external surveillance of the facilities.

2. At what point is a foreigner informed about the rules applicable in the facility?

When being placed in the facility, or immediately after that, a foreigner should be informed about the internal rules of the facility and his/her rights and obligations relating to his/her stay in the facility in his/her mother tongue or in a language s/he is able to comprehend. Foreigners are assisted in their adaptation to the facility by social workers and other staff of the facility.

3. What are the rights and obligations of detained foreigners?

Foreigners have the right to be provided with a bed, a chair, a cabinet in which they can store their personal belongings and which should be lockable; they have the right to be provided with three meals a day, basic sanitary articles and uninterrupted eight-hour sleep during the night. Foreigners are allowed to receive and send written communications without any limitation and, when they send official correspondence (court, ministries etc.), they are provided with 4 free post stamps. Once a week, foreigners are entitled to receive one parcel with food and personal items (maximum weight of 5 kilograms). The above limitation does not cover parcels with clothing sent to be exchanged.

Foreigners are obliged to tolerate a reasonable limitation of their rights (for example, the freedom of movement and residence, right to privacy), to observe the internal rules of the facility, to follow the instructions of the Refugee Facilities Administration and the Police and to tolerate initial, regular and final medical check-ups.

4. Are foreigners provided with any health care and, if so, to what extent?

Detained foreigners who are not insured receive medical services, although not exceeding emergency care.² Emergency care covers conditions that are immediately dangerous to life, may lead to sudden death due to deterioration of pathological changes, will cause permanent pathological changes if medical care is not quickly provided, cause sudden suffering and pain, cause a change in the conduct and behaviour of the patient, endanger the patient or his/her surroundings, are related to pregnancy and childbirth (with the exception of abortion at request of a foreigner), or are related to mandatory quarantine or some other measure relating to protection of public health. If such medical care is not available directly at the facility, the Ministry of the Interior must arrange for it outside the facility.

Foreigners must be informed of all medical procedures so that their consent can be considered free and informed. In the event of any doubt regarding a foreigner’s free and informed consent due to the language barrier, it is required to use the services of an interpreter. Foreigners, like any other patients, have the right to refuse a medical procedure and to peruse their medical records, including the making of extracts or copies of thereof.

¹ Enforcement of a decision on detention of a foreigner on the basis of Act No. 326/1999 Coll., on the residence of foreign nationals in the Czech Republic and on amendment to some laws, as amended, in particular for the purpose of administrative expulsion, or enforcement of a decision of the Ministry on the duty of an applicant for international protection to stay in a facility for the detention of foreigners on the basis of Act No. 325/1999 Coll., on asylum, as amended.

² Section 176 of the Residence of Foreign Nationals Act and Section 88 (5) of the Asylum Act.

5. May foreigners receive visitors in the facility?

The Residence of Foreign Nationals Act allows detained foreigners to receive visits twice weekly. Each visit lasts one hour and no more than four people may be present. In justified cases and after agreement with the Police, the head of the facility may allow a higher number of visits or longer visits based on request.

6. What are the conditions for detainment in the facility and what are the reasons for placement in the strict regime ward?

Foreigners may not leave the facility without consent of the Police. The facility is divided into a moderate regime ward and strict regime ward. The moderate regime ward can be further divided into sections (devoted to, for example, families with children, women), which other foreigners are not allowed to enter.

Foreigners may be placed in the strict regime ward if they are aggressive, require increased surveillance for another serious reason or if they repeatedly seriously break the internal rules or the applicable provisions of the Residence of Foreign Nationals Act. The Police draw up a record of the placement of the foreigner in the strict regime ward, they inform the foreigner of the contents of the record in a language s/he understands. The record also includes information on the possibility to submit a complaint about the placement to the Ministry of the Interior (see par. 11 below), through which the foreigner may contest the legal grounds for his/her placement in the strict regime ward. A foreigner who is dissatisfied with the response to his/her complaint may also contact the Public Defender of Rights.

If the duration of placement in the strict regime ward exceeds 48 hours, the Police issue a decision. If the foreigner believes that the legal preconditions for the issue of a decision on placement in the strict regime ward were not fulfilled, s/he may claim its cancellation in court by means of an administrative action lodged within 30 days of the date of issue of the relevant decision. The jurisdiction belongs to the Municipal Court in Prague, Hybernská 18, 111 21 Prague 1. Foreigners can also turn to the Public Defender of Rights.

7. Can the Police carry out personal searches of foreigners and their belongings?

The Police are authorised to carry out personal searches of foreigners and their belongings not only when the foreigners are being admitted to the facility, but also during their stay. The searches are aimed at ascertaining whether foreigners keep items that must not be introduced into or kept in the facility. Personal searches must be carried out by a person of the same sex and human dignity must be observed. Searches of belongings and rooms must also be carried out with care and the principle of proportionality must be observed. For example, items may not be broken or thrown about the room during searches. Complaints about the conduct of the Police in carrying out searches can be lodged with the Police department which carried out the search. Foreigners dissatisfied with the response to their complaint may contact the superior department of the Police of the Czech Republic. Information on who carried out a specific search can be obtained at the deployed policemen or the Refugee Facilities Administration.

8. Are family members accommodated together?

As a rule, members of one family are placed together as there are parts of the facility devoted to families with children. It must be noted that, according to the currently valid legal regulations, children under 15 years of age may not be detained and, if they are in the facility together with their parents, they may freely leave the facility if accompanied by some other person who is of legal age. Temporary division of a family within the facility is admissible only if a member of the family is placed in the strict regime ward.

9. Can detained foreigners have money? Can foreigners purchase goods?

Detained foreigners may receive money sent for them to the facility or handed over to them in any other manner without any limitation. However, foreigners are obliged to deposit the money

with the Refugee Facilities Administration. If a foreigner does not deposit his/her money voluntarily, the Police will seize the money and deposit it even without the foreigner's consent.

Foreigners who have deposited money may use this money to buy items of daily use, books, newspapers or magazines, always once a week and using up to CZK 300. The items are bought by the Refugee Facilities Administration based on a written order of the foreigner at intervals determined by the internal rules of the facility. Foreigners confirm the receipt of the items and the bills by their signature.

The Refugee Facilities Administration may use the foreigners' deposited money to pay expenses connected with the foreigners' detention and leaving the territory of the country if the money is in Czech crowns or in another freely convertible currency. A foreigner who is not transferred to an asylum facility immediately after being released from the facility or a foreigner who is transported by the Police to a border crossing to leave the country is given a minimum of CZK 400 at the end of the detention from the money deposited by him/her.

10. Does someone provide legal advice to foreigners in the facility?

Foreigners may be visited in the facility by their lawyers. In addition, non-governmental non-profit organisations focusing on foreigner issues provide legal advice to foreigners at the facility at a regular basis.

11. Can foreigners complain about the situation in the facility?

A detained foreigner may complain about the conditions of detainment (e.g. material equipment, rules of visits, accessibility of healthcare, religious or psychological services etc.). Such a complaint can be handed over to any employee of the Refugee Facilities Administration or sent to the Ministry of the Interior at Nad Štolou 3, PO BOX 21/OAM, 170 34 Prague 7. Foreigners must be informed of the manner of resolution of their complaints. Complaints about provision of healthcare services in the facility can be handed over to the healthcare personnel in the facility.

12. Can the Public Defender of Rights investigate complaints about the situation in the facility?

The Defender cannot directly handle complaints about the situation in the facility but can investigate the manner in which a complaint was processed by the responsible authorities (see par. 11).

A complaint seeking investigation of a matter by the Defender must contain the name, surname and contact address of the person approaching the Defender. The complaint must also indicate the reasons for dissatisfaction with the handling of the complaint and, if appropriate, point out that the complaint was not handled within a reasonable period of time. Attach a copy of the document by which the complaint was addressed. If you send the original counterpart, it will be returned to you after a photocopy is obtained. Send the complaint to the following address: Kancelář veřejného ochránce práv (Office of the Public Defender of Rights), Údolní 39, 602 00 Brno.

The Defender also performs "systematic visits" in facilities for the detention of foreigners. The objective of systematic visits is not to address individual complaints but to inspect the conditions of detention and observance of the rights of the detained foreigners so as to strengthen their protection against torture, cruel, inhuman or degrading treatment or punishment and other forms of ill-treatment. Ill-treatment can consist in degrading treatment (e.g. in personal searches), unsatisfactory material and hygienic conditions, disproportionate regime measures etc. For more information, go to www.ochrance.cz/ochrana-osob-omezenych-na-svobode/.