

The Creation and Legal Status of the Slovak, Roma and Vietnamese Minorities in the Czech Republic¹

RENÉ PETRÁŠ

Hardly anyone realises that the largest minority groups in the Czech Republic, i.e. Slovaks and Romani, were in fact formed through immigration, although only within Czechoslovakia and no sooner than after World War II. After the year 1989 other new minorities, whose importance has been increasing, came into existence, e.g. the Ukrainian and Vietnamese minorities,² despite the fact that immigration used to be and still is often perceived as something marginal.³ However, it was in the Czech Republic where, at the beginning of the millennium, the number of immigrants grew the fastest among all developed states (members of the OECD). The issue is gaining importance in contemporary Europe, which is indicated by repeated unrest in France and Germany, and by frequent concerns about the growing influence of Muslims⁴ and about their conflicts with the democratic state. Nonetheless, the interest in the issue is still rather limited in Czech jurisprudence.

The fact that migration has long-established traditions in the Czech lands, which is manifested even today, is often ignored. Despite frequent debates about the Roma issue, the Czech public is unfamiliar with the fact that the Romani living in the Czech Republic are almost exclusively immigrants who came after 1945, and their descendants. It was the incessant migration from hamlets in Eastern Slovakia with low standards of civilisation that contributed significantly to conflicts with the majority society. The expulsion of Germans after World War II was a specific migration as well.⁵

The state's thorough involvement in society was brought about by modern time, which was marked by Joseph II's reforms in the Czech lands. Although it is possible to find legal sources dealing with the issue of migration in older times, they are exceptions. Usually they were legal guarantees ensuring certain rights for welcomed immi-

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2 For details see Petráš, René: *Migrace a právní postavení přistěhovalců v českém právu z historické perspektivy* [Migration and the Legal Status of Immigrants in Czech Law from the Historical Perspective] = *Migrace a kulturní konflikty* [Migration and Cultural Conflicts], ed. Scheu, Harald Ch., Auditorium, Praha, 2011, pp. 114-141.

3 *Cizinci v České republice 2006* [Foreigners in the Czech Republic 2006]. Český statistický úřad, Praha, 2006.

4 See, for example Lidák, Ján: *Súčasný trendy vo vývoji moslimskej komunity v Európe* [Contemporary Trends in the Development of the Muslim Community in Europe] = *Migrace tolerance integrace II* [Migration, Toleration, Integration II]. Slezský ústav SZM – Informační kancelář Rady Evropy, Opava – Praha, 2005, p. 294 et seq.

5 For details see Petráš, René: *Cizinci ve vlastní zemi* [Foreigners in Their Own Country]. Auditorium, Praha 2012.

grants, such as traders from the west in the early Middle Ages or German immigrants later on. A new chapter in the history of migration, as far as the Czech lands and other regions of the Habsburg union of states are concerned, was represented by Joseph II's policy, which also brought about the prevention of emigration, especially in cases of highly rated specialists. In 1784, i.e. under the reign of this reformer, the first emigration patent was issued (no. 466), which regarded persons who left for abroad with the intention of never returning as emigrants.⁶ Emigration was made easier in 1850, and liberalised completely by the December Constitution in 1867.

The last decades of the monarchy, particularly the beginning of the 20th century, experienced a wave of mass emigration, especially to overseas countries. The situation led to efforts to develop an effective emigration policy. Migration to the Czech lands was rather exceptional from the end of the 17th century to 1945. It was immigration from abroad in particular that was limited, which is often accounted for by the fact that citizenship was quite difficult to acquire. In 1910, there were only 2% foreigners living in Cisleithania, including persons from the other part of the monarchy, i.e. Hungary.⁷

The constitution of the new Czechoslovak state meant quite a significant change as far as citizenship is concerned,⁸ even though little changed regarding the fact that the region was left by numerous (economic) emigrants while immigration was only minimal. In the 1920s there were efforts in developed states, also in the Czechoslovak Republic despite being less developed, to restrict and regulate migration. The key legal regulation was Act no. 121/1922 Sb. z. a n., on emigration. Emigration remained possible but it could be restricted. It was Act no. 55/1928 Sb. z. a n., on passports, which was meant to regulate emigration and cross-border travel in general. In spite of the fact that economic emigration still prevailed at the time of the inter-war Czechoslovak Republic, political refugees appeared both in western countries and in the Czech Republic after the 1960s and 1990s. They were refugees mainly from Soviet Russia at first and later also from Germany, Poland and Austria. There also emerged efforts to protect the domestic labour market against immigrants even before the Great Depression occurred. Act no. 39/1928 Sb. z. a n., on the protection of the domestic labour market was of key importance, under which employing foreigners was subject to "the provisions of this act throughout the time of unfavourable conditions on the domestic labour market" (§ 1).

Migration of citizens at the times of oppression between 1938 and 1989 were of a completely different nature. Unlike during the democratic first Czechoslovak Republic and the liberal end days of the monarchy fleeing political persecution and even

6 Baršová, Andrea – Barša, Pavel: *Přistěhovalectví a liberální stát [Immigration and a Liberal State]*. Masarykova univerzita, Brno, 2005, pp. 206-207.

7 Baršová, Andrea – Barša, Pavel: *Přistěhovalectví a liberální stát [Immigration and a Liberal State]*. Masarykova univerzita, Brno, 2005, pp. 211-212.

8 For details see Petráš, René: *Menšiny v meziválečném Československu [Minorities in Inter-war Czechoslovakia]*. Karolinum, Praha, 2009.

forced mass migration became common – which meant not only the expulsion of Germans but also the manipulation of the Hungarian and Romani population. One of the means of assimilating Hungarians in the Czechoslovak Republic was transferring a part of them to the borderlands of the Czech lands, where they were meant to replace the expelled German workforce. This transfer was carried out, as was common then, in quite tough conditions leading to the creation of a minority still in existence. It was in this post-war period when considerable intra-state migrations commenced, which led to the creation of the two most numerous minorities in contemporary Czech Republic, i.e. the Slovaks and the Roma.

Although a considerable number of Slovaks came to the Czech lands already at the time of inter-war Czechoslovakia, the main period of migration started no sooner than after 1945; the reasons were diverse: at the beginning the repopulation of the abandoned German regions, later industrialisation (Ostrava region), and the strengthening of Slovak participation in government.⁹ This intra-state migration was of crucial importance from a statistical perspective; however, its importance should not be overestimated. Even though the creation of this minority, which is the most numerous to this day, happened quite quickly [the number of Slovaks in the Czech lands (in thousands): 1930 – 44, 1950 – 258, 1961 – 276, 1970 – 321, 1980 – 359, 1989 – 419],¹⁰ there has never been a real immigration or minority issue. The existence of the Slovak minority has always been dismissed by both authorities and citizens, who in fact did not, and often still do not, perceive it as a minority group. The language issue was all but non-existent and those Slovaks who wished to fight assimilation maintaining their own national culture in the Czech lands were not met with opposition by the authorities or the general public.

The main reasons for the post-war migration into the Czech lands were the expulsion of Germans, as a consequence of which the borderlands became underpopulated, and later the Czech industry's need of workforce. As the universal expulsion of Hungarians did not take place and the number of Slovaks settled in the south of Slovakia was limited, the migration wave headed for the Czech borderlands. Unlike the peculiar situation of re-settling of the originally German borderlands, the other reason for the inflow of Slovaks into the Czech lands is a typical example of migration in developed states. It was the developing industry in the Czech lands in need of workforce that attracted Slovak workers, just like more developed western states attracted workers from poorer regions or less developed foreign states. An interesting element of Slovak settlement in the Czech lands is the consequence of Czechoslovak military strategy: similarly to the whole Soviet bloc, military troops were concentrat-

9 For details see Petráš, René: *Menšiny v komunistickém Československu [Minorities in Communist Czechoslovakia]*. Eurolex Bohemia, Praha, 2007, pp. 109-112, 232-234, 360-361.

10 *Federální statistický úřad / Historická statistická ročenka ČSSR [The Federal Statistical Office / Historical Statistical Yearbook of Czechoslovakia]*. Státní nakladatelství technické literatury, Praha, 1985, p. 429, *Statistická ročenka České a Slovenské federativní republiky 1990 [Statistical Yearbook of the Czech and Slovak Federative Republic]*. Federální statistický úřad, Praha, 1990, p. 100.

ed at the western border; i.e. many Slovak soldiers and officers were stationed in the Czech lands, where they often settled permanently.¹¹

The constitution of the independent Czech Republic quite markedly reduced the influx of Slovaks, and the new generation almost entirely assimilated. The number of persons claiming allegiance to Slovak nationality has declined sharply; while in the 1980s the number was nearing 400,000, according to a census in 2001 there were only 193,000 persons, although the representatives of Slovak minority organisations claim that the number is much higher. The Slovak minority's interest in public life is negligible, which manifests itself mainly in parents being uninterested in sending children to minority schools, which vanished in 2001.¹² Slovaks are a problem-free minority and the Czech environment suits them perfectly. Even those who use their mother tongue in public life or at work do not encounter legal problems or any opposition in their surroundings.

The Roma have lived in the Czech lands since medieval times, but unlike in eastern states, such as Slovakia or Romania, they did not form a large group. The vast majority of them died under the Nazi terror. The contemporary Roma in the Czech Republic are almost exclusively immigrants and descendants of immigrants from Slovakia after 1945. Moreover, their lifestyle is different from that of the Roma who used to live in the Czech lands.¹³ It was the continuous migration from very poor and backward gypsy camps in Eastern Slovakia that was responsible for the deteriorating relationship with the majority population in the Czech lands. While the already existing gypsy population was gradually assimilating, new immigrants with a completely different cultural background kept arriving. The migration was rapid; while there were only an estimated 1,000 Roma living in the Czech lands after the war, in 1947 there were already, according to registers, 84,438 living in Slovakia and 16,752 living in the Czech lands.¹⁴

After the establishment of the communist regime, the state did not pay much attention to the issue. The idea that with the removal of "exploitative" capitalism (the reduction of social differences, elimination of unemployment, etc.) the Roma would

11 *Slováci v České republice po roce 1945 [Slovaks in the Czech Republic after 1945]*. Tilia, Šenov u Ostravy, 1998, pp. 71-74, 96-98. *Češi, Slováci a Poláci na Těšínsku a jejich vzájemné vztahy [Czechs, Slovaks and Poles in the Region Těšín and their interrelationships]*. Tilia, Šenov u Ostravy, 1997, pp. 37-39.

12 Sulitka, Andrej: *Národnostní menšiny v České republice po roce 1989 a národnostněmenšinová politika [National Minorities in the Czech Republic after 1989 and National Minorities Policy] = Menšiny a právo v České republice [Minorities and Law in the Czech Republic]*, Petráš, René – Petrův, Helena – Scheu, Harald Ch. (eds.), Auditorium, Praha, 2009, pp. 171-172.

13 Petráš, René: *Menšiny v komunistickém Československu [Minorities in Communist Czechoslovakia]*, Eurolex Bohemia, Praha, 2007, pp. 113-116, 180-192, 234-246, 274-285, 342-351, 361-365. Petráš, René: *Cikánská/romská otázka v Československu na počátku komunistického režimu a návaznost na starší vývoj [The Issue of Gypsies/Romani in Czechoslovakia at the Beginning of the Communist Regime and the Continuity with the Previous Development]*, *Právněhistorické studie* 38 [Legal-Historical Study 38], 2007, pp. 225-247.

14 Davidová, Eva: *Cesty Romů 1945-1990 [Travels of the Roma 1945-1990]*. Univerzita Palackého, Olomouc, 1995, pp. 9-10.

quickly assimilate into the majority population prevailed. As of 1950, the regime also tried to improve the financial situation of this group of citizens. The policy was not very successful and the Roma's nomadic life was determined to be the main cause of its failure. In order to suppress the phenomenon, Act no. 74/1958 Sb., on the permanent settlement of nomadic persons, was adopted, which should have ensured the stable settlement of the Roma in compliance with the needs of the regime; it also provided for harsh sanctions. Even these methods failed and the regime started to support extensive migrations in order to assimilate this part of the population into the majority society.

Besides the spontaneous migration, the state also encouraged the resettlement of eastern Slovakian gypsies to the Czech lands, which gradually became a key element of the Roma issue. Besides the settlement of the Roma after 1959, their dispersion should also have taken place.¹⁵ Some Roma migration from Slovakia went on for the entire post-war period; however, it appeared too slow for eastern Slovakia officials. A resolution of the Communist Party of Czechoslovakia constituted the basis for governmental resolution no. 502 of 13 October 1965, on measures to resolve the issues of the gypsy population, which established the Governmental Committee for the Issues of the Gypsy Population. It was a new, greatly influential institution carrying out the policy laid down in the Principles of the Dispersion and Relocation of the Gypsy Population adopted by it on 18 December. It was supposed to be an exceptional project in which the Roma from underdeveloped hamlets in eastern Slovakia were to be relocated to Czech regions. There, they were supposed to solve the problem of reduced workforce and at the same time, their living standard would have improved. The project, however, failed like other projects intended to integrate the Roma. The whole transfer was chaotic; regions in eastern Slovakia tried to get rid of the Roma as quickly as possible irrespective of the recommended quotas, whereas Czech regions slowed down the process and refused to accept them.¹⁶

What was supposed to be a voluntary transfer and dispersion was in practice interpreted as a duty of Roma families to move into a determined region regardless of family relationships and other circumstances. The relocations culminated 1967; however, practical problems manifested themselves. As early as 1968 the state decided to adopt a new policy influenced by the current process of democratisation. The Government Committee for the Issues of the Gypsy Population was abolished by resolution no. 384 of November 1968, and it was the Ministry of Labour and Social Affairs of the Czechoslovak Socialist Republic which became the competent body with respect to the issue. Most importantly, the Roma issue began to be debated

15 *Romové v České republice (1945-1998) [The Roma in the Czech Republic (1945-1989)]*. Socioklub, Praha, 1999, pp. 171-175.

16 Pavelčíková, Nina: *Romové v českých zemích v letech 1945-1989 [The Roma in the Czech Lands between 1945 and 1989]*. ÚDV, Praha, 2004, pp. 89-91. Kaplan, Karel: *Kořeny československé reformy 1968 III., IV. [Roots of Czechoslovak Reform 1968 III, IV]*. Doplněk, Brno, 2002, pp. 35-36. Jurová, Anna: *Rómska problematika 1945-1967 / dokumenty 4. část [The Roma Issue 1945-1967 / Documents, Part 4]*. ÚSD AVČR, Praha, 1996, doc. 304, pp. 819-824.

openly again, the Romani people themselves got engaged in the debate and the state was willing to recognise the Roma nationality. The Union of Gypsies-Romani (Svaz Cikánů – Romů) was allowed to be established in 1969 and it began to openly vocalize Romany requests. Normalization, however, put an end to this short liberal period and it also meant the abolishment of the Union in 1973.¹⁷ It is apparent that state policies failed quickly; the following years may be considered the milestones: 1952, 1958, 1965, 1968, and 1973. The feasibility of forced, quick changes to the lifestyle and culture of immigrants is limited, and efforts to control the movement of citizens fail.

The regime at the time of normalisation (1969-1989) avoided radical plans like those in the preceding two decades; therefore, the official policy of dispersion was not reinforced, but there was still a continuous and quite heavy migration of Romani people from Slovakia to the Czech lands. The regime understood that one of the crucial obstacles of Roma integration in the Czech lands was the ever new influx of Romani people from uncivilised hamlets.

After the 1989 fall of the Communist regime, a new situation was brought about in 1993, the dissolution of the federation, when a considerable portion of the Roma in the Czech Republic became foreigner. Since the federalisation of the state in 1968 there were two distinct citizenships – Czech and Slovak – which, however, was a mere formality and citizens were usually not aware of it. All of a sudden, upon the establishment of the Czech Republic, numerous Romani were left without a Czech citizenship and hardly could they have acquired one, as a clear criminal record was required among other things. This legal issue produced a strong international reaction and the Czech Republic later relaxed its requirements for the acquisition of citizenship for the citizens of the Slovak part of the former federation. All in all, it can be said that even though the Roma migration occurred within the state, the consequences are similar in many aspects to the experience of western European countries with immigrants from other cultural regions.

The Vietnamese as well as the Ukrainian or Chinese minorities were established in another way, i.e. through immigration from another, and what is more, remote state. As for the Vietnamese, the situation is special, as the arrival of immigrants at the end of the 20th century was the continuation of certain bonds from the time of the communist regime. On the whole, if we consider communist Czechoslovakia and the entire socialistic bloc, we can establish that there was not much interest in migration; therefore, immigration policy whatsoever was not necessary. The number of foreigners living in the Czech lands was negligible, thus, no thorough regulation was needed until the change of conditions in the 1990s. However, commencing in the

17 Davidová, Eva: *Cesty Romů 1945-1990 [Travels of the Roma 1945-1990]*. Univerzita Palackého, Olomouc, 1995, pp. 191, 203-208. Pavelčíková, Nina: *Romové v českých zemích v letech 1945-1989 [The Roma in the Czech Lands between 1945 and 1989]*. ÚDV, Praha, 2004, p. 92 and others. Further development, e.g. Lhotka, Petr: *Činnost komise pro otázky cikánských obyvatel v letech 1970-1975 [The Activity of the Commission for Issues of Romani Inhabitants in 1970-1975]*. In: *Milý Bore... [Dear Bor...]*. HÚ AVČR, Brno, 2003, p. 337 et seq.

1960s and 1970s, a phenomenon typical of developed western countries occurred, that is the arrival of foreign workers, though in a moderate measure. It first concerned the Polish, but all workers coming later were almost exclusively from member states of the Council for Mutual Economic Assistance (Comecon – RVHP). Unfortunately, the process was strongly politicised and instead of the needs of the Czechoslovak economy the support of pro-Soviet regimes, such as Vietnam, Cuba, Mongolia, and Angola was taken into account.

Vietnamese citizens were employed based on a 1980 agreement and their numbers reached as high as 27,100 in 1983. Like in the cases of other developing countries supported by Moscow, and therefore by Prague as well, the inflow of workers was preceded by vocational training of apprentices and trainees under the agreements from 1974 and 1979. However, the number of foreign workers was always limited. Based on intergovernmental agreements there were only 23,113 workers from Vietnam, 3,790 from Poland, 274 from Mongolia, 142 from Angola, and 101 from Cuba working in the territory of Czech Republic at the end of the year 1990. The communist regime made efforts to separate foreign workers from the domestic population. It was not supposed to be immigration, meaning whole families settling permanently, but only a temporary employment of individuals who often stayed in special quarters. After the fall of the regime, it was decided as early as in 1990 (resolution of the government no. 274) that this co-operation, which was often considered a hindrance to a new pro-western policy, should be quickly terminated. The number of persons working due to intergovernmental agreements was decreasing rapidly; to illustrate, there were only 1,110 workers from Vietnam, 210 from Poland, and 10 from Angola in the spring of 1993.

The year 1989 changed the character of migration to the Czech lands, which became part of the democratic West. First of all, there was only a light flow of political refugees as opposed to a much more significant number of economic migrants; secondly, whole families came to stay permanently instead of temporary workers. The process of European integration also played an important role in the shaping of the face of migration. Soon after 1989 Czechoslovakia was dissolved so the immigration of Slovaks and Romani stopped; moreover, persons who arrived earlier often became citizens of a foreign state. As far as the legal regulation of migration is concerned; frequent amendments reflected the government's wavering approach to the issue.

It must be said that the year 1989 and the changes in the 1990s signified a fundamental turning point in the issue of migration in the Czech lands, mainly from a legal point of view. In modern times, roughly from the 17th century, the Czech lands were a region with quite heavy emigration. On the other hand, immigrants arrived only in limited numbers, and what is more, from nearby regions and rarely from abroad. While the balance of cross-border migration used to be passive, it has been significantly active since the 1990s. From a legal point of view it should be noted that the legal regulation of migration had not been very detailed and elaborate until the 1990s. The issue of emigration was dealt with only marginally by law (e.g. to prevent fraud

committed against emigrants). Immigration from abroad was, with the exception of re-emigrants, minimal and the transfers within one state lacked any detailed regulation. We can hardly find any state policy whatsoever that would be based on legal regulations. Even after the year 1989 it was initially the same under the influence of a liberal economic doctrine; later, however, there was an effort to regulate this issue, partly because of the interests of the European Union. It can be observed that particular laws have a big influence on the extent of migration, which could not be seen in the past. For example, in 2001 the number of foreigners decreased as a consequence of the increased protection of the domestic labour market, which was introduced as part of the harmonisation with European law. At the same time, the overall legal regulation (which often changes) is more complex. The most important regulation is that of the residence of foreigners in the territory of the Czech Republic. The issue becomes intricate because, unlike in the past, there is extensive immigration for economic reasons¹⁸, in the case of which it is especially difficult to decide whether it is for a short-term, long-term, or of a permanent nature; often even the foreigners themselves are undecided about their future in the Czech Republic. Therefore, the issue of the protection of the domestic labour market emerges.

In the first years after the 1989 revolution, which may be delimited as the years between 1990 and 1996¹⁹, the approach was taken, in conformity with the official economic (neo)liberalism, to neither suppress nor regulate migration excessively but rather keep a record of it. Starting in the second half of the 1990s there was an apparent trend to regulate immigration, which was among other things connected with political changes in the state. Two extensively restrictive statutes adopted in November 1999 were of key importance, namely acts no. 325 and 326/1999 Sb., which came into effect on 1 January 2000 – on asylum (act no. 325) and on the residence of foreigners in the territory of the Czech Republic and amending certain laws (act no. 326), and which have been in force to date, though amended many times.

The minority affairs are of marginal public interest in the Czech Republic for the time being. The potential intensification of immigration is met with considerable opposition by the public. However, the public is usually unaware of the fact that even contemporary minorities, i.e. Slovaks and the Roma, were formed through immigration no sooner than after 1945. The same applies to some other smaller groups, such as Hungarians or Greeks in the Czech Republic. Other new minorities have emerged since the end of the 20th century; the most conspicuous one is the Vietnamese minority, coming from a completely different environment.

18 On individual communities see, for example, *Migrace tolerance integrace II [Migration, Toleration, Integration II]*. Slezský ústav SZM – Informační kancelář Rady Evropy, Opava – Praha, 2005, p. 302 et seq.

19 See Baršová, Andrea – Barša, Pavel: *Přistěhovalectví a liberální stát [Immigration and a Liberal State]*, Masarykova univerzita, Brno, 2005, p. 221 et seq.