

279/1992 Coll.

ACT
of the Czech National Council
of 28 April 1992

on some further prerequisites for certain positions filled by appointment or designation of officers of the Police of the Czech Republic and officers of the Penitentiary Service of the Czech Republic

Amendment: 555/1992 Coll.
Amendment: 256/1995 Coll.
Amendment: 424/2000 Coll.
Amendment: 35/2002 Coll.
Amendment: 362/2003 Coll.

The Czech National Council has resolved to pass the following Act:

Section 1

This Act determines some further prerequisites for certain positions filled by appointment or designation

- a) in the Ministry of the Interior of the Czech Republic (hereinafter referred to as “the Ministry”);
- b) in the Police of the Czech Republic;
- c) in the Penitentiary Service of the Czech Republic.

Prerequisites for certain positions in the Ministry and the Police of the Czech Republic

Section 2

- (1) Positions under section 1 a) and b) mean positions of
- a) officers of the Police of the Czech Republic (hereinafter referred to as “police officer”) called to fulfill tasks in the Ministry;¹⁾
 - b) police officers assigned to the Office of Investigation of the Czech Republic;
 - a) police officers assigned to a Police Directorate;
 - b) Director, Deputy Director, Commissioner, Commander of External Service*, Head of Administrative Service Department and Chief Inspector at the District and equivalent Metropolitan District and Municipal Directorates of the Police of the Czech Republic;
 - c) Director, Deputy Director, Chief Commissioner, Commander of External Service, Head of Department, Commander of a SWAT Team, Chief of Administrative Service Department, Chief of Section, Chief Senior Specialist and Senior Specialist at the Regional Police Headquarters in the Czech Republic and the Capital Prague Police Headquarters;
 - d) Director, Deputy Director, Chief of Department and Senior Investigator at the Regional Offices of Investigation in the Czech Republic and the Capital Prague;

* Uniformed Police (trans. note)

- e) Director, Deputy Director and Chief of Department at the District and equivalent Metropolitan District and Municipal Offices of Investigation in the Czech Republic.
- (2) Positions mean the positions as referred to in paragraph 1 a) through g) or equivalent positions.
- (3) Positions under paragraphs (1) and (2) mean service positions under a special Act. ^{1a)}

Section 3

- (1) A prerequisite for a position as referred to in section 2 is that during the period from 25/2/1945 to 17/11/1989 the citizen was not
- a) an officer of the National Security Corps assigned to a counterintelligence unit in the State Security Service;
 - b) an officer of the National Security Corps assigned to the State Security Service holding the position of a Chief of Division and higher;
 - c) registered in the State Security Service's files as a resident, agent, lent apartment holder, conspiracy apartment holder, informer or ideological collaborator of the State Security Service;
 - d) repealed
 - e) a Secretary of a body of the Communist Party of Czechoslovakia or the Communist Party of Slovakia from the level of a District Committee or an equivalent committee upwards, a member of the presidium of these committees, member of the Central Committee of the Communist Party of Czechoslovakia or the Central Committee of the Communist Party of Slovakia, a member of the Bureau for the Management of Party Work in the Czech Lands or a member of the Committee for the Management of Party Work in the Czech Lands, except for those holding these posts only in the period from 1/1/1968 to 1/5/1969;
 - f) in the National Security Corps holding the post of a Secretary of the Main Committee of the Communist Party of Czechoslovakia or the Main Committee of the Communist Party of Slovakia, a member of the Main Committee of the Communist Party of Czechoslovakia or a the Main Committee of the Communist Party of Slovakia, a member of the Unit Committee* of the Communist Party of Czechoslovakia or the Unit Committee** of the Communist Party of Slovakia;
 - g) an employee of the system of structures as referred to in e) and f) in a department in charge of the political running of the National Security Corps;
 - h) an officer of the National Security Corps assigned to the Department for Political Training and Educational, Cultural and Propaganda Activities of the Federal Ministry of the Interior or the Ministry who was directly involved in the political training
 - i) an officer of the National Security Corps assigned to the position of a Deputy Chief (Commander) for Political Training and Education
 - j) a member of the People's Militias;
 - k) a member of the National Front Action Committee after 25/2/1948, vetting commissions after 25/2/1948 or vetting and normalization commissions after 21/8/1968;
 - l) a student at Felix Edmundovic Dzerzinsky University of the Council of Ministers of the USSR for officers of the State Security Service, the University of the Ministry of

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the Interior of the USSR for officers of the Public Security Service, the Political College of the Ministry of the Interior of the USSR and other security schools in the USSR, or a postgraduate or a participant in courses lasting longer than 3 months at these schools.

- (2) Another prerequisite for positions under section 2 is that no facts as referred to in section 5 (1) c) and d) have been ascertained with respect to the citizen.

Prerequisites for certain positions in the Penitentiary Service of the Czech Republic

Section 4

- (1) Positions under section 1 c) mean positions of

- a) officers of the Penitentiary Service of the Czech Republic (hereinafter referred to as “penitentiary officer”) assigned to the Directorate of the Penitentiary Service of the Czech Republic;
- b) Director and Deputy Director of a Department of the Penitentiary Service of the Czech Republic or an organizational unit of the Penitentiary Service of the Czech Republic placed on the same level as a Department of the Penitentiary Service of the Czech Republic;
- c) Head of Division and of equivalent organizational units within the Departments of the Penitentiary Service of the Czech Republic, Head of Section (Group) in the organizational units of the Penitentiary Service of the Czech Republic equivalent in level to a Department of the Penitentiary Service of the Czech Republic;
- d) Penitentiary officers assigned to Prevention Divisions (Groups) within the Departments of the Penitentiary Service of the Czech Republic.

- (2) Positions under section 1 mean service positions under a special Act. ^{1a)}

Section 5

- (1) A prerequisite for positions under section 4 in the Penitentiary Service of the Czech Republic is that during or for the period from 25 February 1948 to 17 November 1989

- a) no facts as referred to in section 3 (1) have been ascertained with respect to the citizen;
- b) the citizen was not a member of a Department Committee of the Communist Party of Czechoslovakia at the Correction Corps Administration of the Czech Republic, a member of a Department Committee of the Communist Party of Czechoslovakia in Departments and equivalent organizational units of the Correction Corps of the Czech Republic or a Chair of a Basic Unit of the Communist Party of Czechoslovakia in the Departments of the Correction Corps of the Czech Republic where no Department Committee of the Communist Party of Czechoslovakia was established;
- c) the citizen did not hold the position of a Deputy Chief of the Headquarters or a Department of the Correction Corps of the Czech Republic in charge of political training;
- d) the citizen did not hold the position of a Head of Division or Section or a Head of the Group of Internal Protection of the Correction Corps of the Czech Republic;
- e) the citizen was not registered in the files of the Correction Corps of the Czech Republic as a resident, agent or confidant of the Internal Protection of the Correction Corps of the Czech Republic.

(2) repealed.

Certificate and affidavit

Section 6

(1) The facts as referred to in section 3 (1) a) through d) shall be proved by a certificate issued by the Federal Ministry of the Interior, or a finding issued under a special Act.²⁾

(2) The facts as referred to in section 3 (1) e) through g), j) and k) and in section 5 (1) b) through e) shall be attested by an affidavit.

Section 7

A citizen, police officer or penitentiary officer who is to hold a position as referred to in section 2 in the Ministry or within the Police of the Czech Republic or a position as referred to in section 4 in the Penitentiary Service of the Czech Republic shall submit a certificate, or a finding or affidavit, as the case may be, to the respective body; at the same time, before commencement of the position, he or she must submit an affirmation that he or she neither is nor was a collaborator of any foreign intelligence or counterintelligence service.

Section 8

(1) The Minister of the Interior of the Czech Republic and the Minister of Justice of the Czech Republic are entitled to apply with the bodies specified in a special Act for a certificate or finding of facts as referred to in section 3 (1) a) through d).³⁾

(2) The Minister of the Interior of the Czech Republic and the Minister of Justice of the Czech Republic may authorize the body responsible for the appointment of a police officer, penitentiary officer or citizen who has been or is to be appointed to the position to apply for the certificate or finding under section 1.

(3) At the same time, the head of the body or the body shall inform the police officer, penitentiary officer or citizen that he or she must submit the certificate or finding within 30 days of its receiving.

(4) The application for the certificate regarding a police officer or penitentiary officer must be sent to the Federal Ministry of the Interior within 30 days of the date this Act becomes effective.

(5) If the police officer or penitentiary officer fails to submit the certificate to the head of the body or to the body within 30 days of its receiving, the head of the body or the body shall request the Federal Ministry of the Interior for sending a duplicate of that certificate.

Section 9

Termination of service and transfer to a different position

(1) If a police officer or penitentiary officer fails to satisfy the prerequisites for a position as referred to in section 3 (1) a) through e) and section 5 (1) b) through e), this shall be considered a reason for terminating service by a discharge.⁴⁾ The relevant body shall decide on the discharge of the police officer or penitentiary officer from the service within 15 days of learning the reason for discharge.

(2) If a police officer or penitentiary officer fails to satisfy the prerequisites for a position as referred to in section 3 (1) f) though l), this shall be considered a reason for his or her transfer to another position than that as referred to in sections 2 and 4.

(3) At discharge, the service terminates upon the lapse of two calendar months following the date of notification of the discharge decision, unless the relevant body and the police officer or penitentiary officer agree on a shorter period.

(4) If the police officer or penitentiary officer who fails to satisfy the prerequisites for the positions as referred to in section 3 (1) and section 5 (1) asks for discharge from the service⁵⁾, the service terminates upon the lapse of two calendar months following the date of delivery of the request for discharge, unless the relevant body and the police officer or penitentiary officer agree on a shorter period.

(5) If the police officer or penitentiary officer refuses to submit an affidavit of the facts as referred to in section 3 (1) and section 5 (1) b) through e) and section 7 within 60 days of the date this Act becomes effective or if the affidavit is not true, paragraph (1) shall be applied.

Common and final provisions

Section 10

Unless otherwise stipulated herein, the conditions and manner of issuing certificates and findings, their delivery and the verification of facts, publication, classifying, sanctions and court jurisdiction for reviewing the findings shall be governed by the provisions of a special Act.⁶⁾

Section 10a

The provisions of this Act shall not apply to citizens born after 1 December 1971.

Section 10b

The provisions of this Act, with the exception of section 2, section 3 (1) a), b), f), h) and i) and (2), and sections 4 and 5, shall be applied when determining some further prerequisites for the appointment or designation to service positions within the Fire and Rescue Service of the Czech Republic, the Customs Administration of the Czech Republic, the Security Information Service and the Office for Foreign Relations and Information accordingly, with a further prerequisite for a position being that during the period from 25 February 1948 to 17 November 1989 the citizen was not:

- a) in the case of the appointment or designation to a service position of an officer of the Security Information Service or the Office for Foreign Relations and Information,
 1. an officer of the National Security Corps assigned to a counterintelligence unit within the State Security Service;

2. assigned to the State Security Service holding the position of a Chief of Department and higher;
 3. in the National Security Corps holding the post of the Secretary of the Main Committee of the Communist Party of Czechoslovakia or the Main Committee of the Communist Party of Slovakia, a member of the Main Committee of the Communist Party of Czechoslovakia or the Main Committee of the Communist Party of Slovakia, a member of a Unit Committee** of the Communist Party of Czechoslovakia or a Unit Committee*** of the Communist Party of Slovakia or an officer of the National Security Corps assigned to the Department for Political Training and Educational, Cultural and Propaganda Activities of the Federal Ministry of the Interior;
- b) in the case of the appointment or designation to a senior service position in the Fire and Rescue Service of the Czech Republic or the Customs Administration, an officer of the National Security Corps assigned to the State Security Service.

Section 11

This Act comes becomes effective on 1 June 1992.

Burešová signed
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1) Section 51 of the Czech National Council's Act N. 283/1991 Coll., on the Police of the Czech Republic

1a) Act No. 361/2003 Coll., on the service of officers of security forces

2) Sections 8, 11 and 13 of Act No. 451/1991 Coll., determining some further prerequisites for certain positions in state bodies and organizations of the Czech and Slovak Federative Republic, the Czech Republic and the Slovak Republic

3) Section 22 (1) of Act No. 451/1991 Coll.

4) Section 106 (1) c) of Act No. 186/1992 Coll., on the service of officers of the Police of the Czech Republic

5) Section 105 (1) of Act No. 186 /1992 Coll.

6) Act N. 451/1991 Coll.

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