

MEMORANDUM OF UNDERSTANDING BETWEEN THE MINISTRY OF THE INTERIOR OF THE CZECH REPUBLIC AND THE DEPARTMENT OF HOMELAND SECURITY OF THE UNITED STATES OF AMERICA REGARDING THE UNITED STATES VISA WAIVER PROGRAM AND RELATED ENHANCED SECURITY MEASURES

WHEREAS the Ministry of the Interior of the Czech Republic and the United States Department of Homeland Security (hereinafter collectively “the Participants”) wish to facilitate the travel of their respective citizens between their two countries;

WHEREAS the Participants desire to enhance the security of their two countries, including by deploying new capabilities to detect and prevent terrorist travel;

WHEREAS the Participants believe that travel between their respective countries should be conducted lawfully and consistent with the domestic legal requirements, including immigration requirements, of their respective countries, and including in the case of the Czech Republic also consistent with European Union and European Community legal requirements;

WHEREAS the Participants have determined that an arrangement concerning participation in the United States Visa Waiver Program (VWP) would both facilitate travel of their respective citizens and enhance their mutual security;

WHEREAS the Participants have reaffirmed that the principles of reciprocity, fairness, and equality will guide this Memorandum of Understanding;

TAKING NOTE of Section 711 of the “Implementing Recommendations of the 9/11 Commission Act of 2007,” which reforms the VWP by expanding opportunities for participation in the program subject to certain enhanced security requirements; and

DESIRING to reach an understanding regarding those security requirements;

NOW THEREFORE THE PARTICIPANTS UNDERSTAND AS FOLLOWS:

A. GENERAL COMMITMENTS

1. Waiver of Three Percent Visa Refusal Rate Requirement:

In the event that the Czech Republic undertakes and the Ministry of the Interior of the Czech Republic and other competent authorities of the Czech Republic implement the security commitments mentioned in this Memorandum of Understanding, and subject to other provisions of U.S. law (including provisions of law in Section 217(c)(8) of the Immigration and Nationality Act (INA)), the U.S. Secretary of Homeland Security, in consultation with the U.S. Secretary of State, intends to waive for the Czech Republic the statutory requirement that a country have a visa refusal rate for its nationals during the previous fiscal year of less than three percent (3%) in order to be designated for participation in the VWP.

2. Implementation of this Memorandum of Understanding

The Ministry of the Interior of the Czech Republic intends to conclude implementing arrangements with the appropriate United States Government agencies, as necessary, in order to carry out the security commitments mentioned in this Memorandum of Understanding. In cases where the Ministry of the Interior is not the competent authority to implement these commitments, it intends to cooperate with the competent authorities of the Czech Republic to conclude such implementing arrangements. These implementing arrangements include arrangements regarding the information exchange, screening information concerning known or suspected terrorists, information to combat terrorism and serious crime, and general information on migration matters, and should allow for the further dissemination of transferred information within the United States Government with appropriate safeguards for privacy and data protection.

3. Evaluation for Initial and Continued Designation in the VWP:

Before the Czech Republic is designated as a VWP Country, the U.S. Department of Homeland Security, in consultation with the U.S. Department of State, intends to evaluate the effect that the designation of the Czech Republic would have on the security, law enforcement, and immigration interests of the United States. It is the understanding of both Participants that the Czech Republic may be admitted upon a determination that such interests would not be compromised. Periodically (but not less than once every two years) the U.S. Department of Homeland Security, in consultation with the U.S. Department of State, intends to evaluate the effect of continued designation on the security, law enforcement, and immigration interests of the United States and determine whether the designation of the Czech Republic may be continued. The evaluations for initial and continued designation would assess, among other factors, how the Ministry of the Interior of the Czech Republic and other competent authorities of the Czech Republic implement the security commitments mentioned in this Memorandum of Understanding.

4. Technical Capability and Legislation:

The Ministry of the Interior of the Czech Republic intends to cooperate with other competent authorities of the Czech Republic to operate and maintain any records, systems, or programs necessary to effectuate the security commitments mentioned in this Memorandum of Understanding. The U.S. Department of Homeland Security intends to cooperate with the Ministry of the Interior of the Czech Republic to ensure that the systems and programs are compatible with the appropriate U.S. government systems and programs. The Ministry of the Interior of the Czech Republic intends to take all steps necessary to prepare any legislation that may be needed to effectuate the security commitments mentioned in this Memorandum of Understanding.

B. SECURITY COMMITMENTS

1. Electronic Travel Authorization (ETA) System:

- a. The U.S. Department of Homeland Security intends to develop and implement an Electronic Travel Authorization (ETA) system to collect electronically such biographical and other information as the U.S. Secretary of Homeland Security deems necessary to determine, in advance of travel, the eligibility of a citizen of the Czech Republic to travel to the United States without a visa and whether there exists a law enforcement or security risk in permitting the citizen to travel to the United States without a visa.
- b. Upon implementation of the ETA system, the Ministry of the Interior of the Czech Republic understands that all citizens of the Czech Republic traveling to the United States for business or tourism under the VWP will be required to use the ETA system.
- c. The Participants intend to undertake a joint outreach initiative, working with representatives of the travel and tourism industries, to ensure that citizens of the Czech Republic are aware of the obligation to use the ETA system when traveling to the United States under the VWP, and to provide them with information about how to use the system.

2. Information Exchange :

a. In general, the Ministry of the Interior of the Czech Republic, in cooperation with other competent authorities of the Czech Republic, intends to cooperate with the U.S. Department of Homeland Security to provide identifying information that includes biographic and biometric data, to be used in determining whether persons who intend to travel to the United States represent a threat to the security, law enforcement, and immigration interests of the United States. In order to facilitate such cooperation, the Ministry of the Interior of the Czech Republic intends to cooperate with competent authorities of the Czech Republic to conclude implementing arrangements with relevant United States Government agencies.

The Participants intend to cooperate in any law enforcement, immigration, or other investigation or proceeding that results from the provision of information described in Part B.2.a consistent with existing or subsequent legal assistance agreements and arrangements between their two countries and with their international obligations.

- b. The Participants intend to collect, analyze, use or share Advanced Passenger Information System (“APIS”) and Passenger Name Record (“PNR”) information according to their respective domestic laws and consistent with EU – US PNR Agreement signed on 26 July 2007 .
- c. For the purpose of these exchanges of information, the Ministry of the Interior of the Czech Republic and the U.S. Department of Homeland Security intend to abide by the requisite and appropriate safeguards for privacy and data protection defined in their respective domestic laws and consistent with their international obligations.

3. Reporting of Lost and Stolen Passports (LASP):

a. Without prejudice to sharing information via Interpol the Ministry of the Interior of the Czech Republic, in cooperation with other competent authorities of the Czech Republic, intends to make available passport data for blank passports and issued passports reported as lost and stolen. Such data should be made available within 24 hours after the government entity that is responsible for recording and monitoring LASP data records that the passport has been lost or stolen. Such data should include, at a minimum, the following information:

- i. document number;
- ii. type of document;
- iii. reported status (lost, stolen blank, stolen from bearer, revoked);

If available, such data should also include:

- iv. date of issuance, if not a blank passport;
- v. expiration date, if not a blank passport;
- vi. date of actual loss, theft, or revocation; and
- vii. location at which reported theft or loss took place.

b. The Ministry of the Interior of the Czech Republic intends to identify a point of contact that is available at all times and is capable of providing expeditious assistance to the U.S. Department of Homeland Security and the U.S. Department of State to resolve questions about potentially lost or stolen passports that have been presented to the United States Government as a basis for identification. This point of contact should have access to passport issuance and LASP information maintained by the government entity responsible for storing and managing such data and should be capable of verifying whether or not the individual encountered is the person to whom the passport was issued, generally within four (4) hours.

c. The Ministry of the Interior of the Czech Republic intends to make available any correction of LASP data that is found to be erroneous within 24 hours. The Ministry of the Interior of the Czech Republic also intends to make available within 24 hours any deletions or changes to its LASP data made available previously, exchange information on LASP trends and analysis, and share exemplars of its national passports with the U.S. Department of Homeland Security and the U.S. Department of State.

To facilitate compliance with these reporting standards and to address any questions about reporting practices, the Ministry of the Interior of the Czech Republic intends to establish a LASP point of contact at the policy level within the entity that is responsible for making available the data regarding blank and issued LASP.

4. Repatriation:

a. The Ministry of the Interior of the Czech Republic intends to take steps necessary to ensure that the Czech Republic accepts for repatriation any citizen or former citizen against whom a final order of removal is issued within 21 calendar days after notification is provided that such order has been issued. A “former citizen” for purposes of this Memorandum of Understanding is a person who lost the citizenship of the Czech Republic after 31 December 1992 and did not have the citizenship of any other State at the moment of or after losing the citizenship of the Czech Republic.

b. The U.S. Department of Homeland Security intends to provide the Ministry of the Interior of the Czech Republic with relevant information, to the extent authorized by law, concerning the person being repatriated, including information relating to the person’s identity and the grounds for removal, as soon as legally feasible after the initiation

of removal proceedings.

c. The Ministry of the Interior of the Czech Republic intends to confirm the identity and citizenship of the person within 21 calendar days after the U.S. Department of Homeland Security provides the information referenced in Part B.4.b.

5. Enhanced Standards for Travel Documents:

a. The Ministry of the Interior of the Czech Republic intends to cooperate with the competent authority of the Czech Republic to issue passports and travel documents through a central issuing authority that is subject to strict audit and accountability mechanisms. The Ministry of the Interior of the Czech Republic intends to call upon the competent authority of the Czech Republic to permit the U.S. Department of Homeland Security to review such audits; the Participants intend to protect any information obtained as a result of such audits against any unauthorized disclosure.

b. The Ministry of the Interior of the Czech Republic, in cooperation with other competent authorities of the Czech Republic, intends to issue emergency passports consistent with standards mutually agreed to by the Participants. Emergency passports should be limited in validity.

c. The Ministry of the Interior of the Czech Republic, in cooperation with other competent authorities of the Czech Republic, intends to issue travel documents that have unique, non-recurring identifying numbers affixed at the time of manufacture.

d. The Ministry of the Interior of the Czech Republic understands that, in the event that the Czech Republic is designated as a VWP country, only Czech citizens in possession of electronic passports (i.e., machine readable passports with both a digitized photograph and an electronically readable chip containing designated travel document data) will be allowed to travel to the United States under the VWP.

6. Airport Security

The Participants intend to cooperate with the competent authorities of their respective Governments to ensure that airport security standards and security operations of air carriers operating between airports of the respective countries are consistent with the Air Transport Agreement between the European Community and its Member States and the United States of America, done in Brussels on 25 April 2007 and in Washington on 30 April 2007.

7. Air Marshals:

The Participants intend to cooperate in the area of in-flight security consistent with the Memorandum of Understanding between the Transportation Security Administration, Department of Homeland Security of the United States of America and the Ministry of the Interior of the Czech Republic on the deployment of in-flight security officers, signed on 14 November 2007.

C. EFFECT:

The foregoing understandings and arrangements reflect the good faith intentions of the Participants. Nothing in this Memorandum of Understanding is intended to be legally binding against the Participants under domestic or international law. This Memorandum of Understanding should not be construed to create any right or benefit, substantive or procedural, enforceable at law or otherwise as between the Participants or by any third party against the Participants, their parent agencies, the United States, the Czech Republic, or the officers, employees, agents, or other associated personnel thereof.

Nothing in this Memorandum of Understanding is to be interpreted to affect the rights and obligations of the Participants as prescribed in the laws and legal regulations of the Czech Republic and the United States of America or by their participation in international treaties and agreements, including obligations arising from the membership of the Czech Republic in the European Union.

Signed in duplicate in the Czech and English languages at on

[[Signatures]]