

ACT
No. 62/2000, Coll. of 24 February 2000
on Some Measures in the Export or Import of Products and on the Licensing Procedures
and on the Change of Some Acts

The Parliament has adopted the following Act of the Czech Republic:

Chapter II
Licensing procedure

Article 66

(1) The products listed in the Government Regulation issued to implement this Act shall be imported into or exported out of the Czech Republic only in extend and under conditions set forth in the official permission of the Ministry (hereinafter referred to as the „licence“).

2) Goods of a non-commercial nature¹² are not subject to the licensing procedure.

Article 67

Types of Licences

(1) For the purpose of this Act, automatic licence means the permission, granted for the export or import of products, which serves for surveillance of such imports into or exports out of the Czech Republic.

(2) For the purpose of this Act, non-automatic licence means the permission for the export or import of determinate quantity of products subject to quantitative or other restrictions.

(3) For the purpose of this Act, security licence means the permission for import or export of products, holding and handling of which is restricted in the Czech Republic by special regulations¹³ due to security or other major national interest. Licence granted for the import or export pursuant to special laws¹⁴ shall not be considered as security licence according to this Act.

¹² § 2 (g) of the Act No. 13/1993 Coll.

¹³ For example the Act No. 288/1995 Col., 13/1998 Coll., 61/1998 Coll., as amended by the Acts No. 425/1990 Coll., 542/1991 Coll., 169/1993 Coll.

¹⁴ For example the Act No. 21/1997 Coll., 38/1994 Coll., 140/19961 Coll., 18/1997 Coll as amended.

Article 68

(1) The Ministry shall decide about the granting of the licence on the base of the written application of a natural person with permanent residency or legal person with place of business in the territory of the Czech Republic authorised to execute commercial activities (hereinafter referred to as the „applicant“).

(2) The application for the licence shall include the following:

- a) the identification data of the applicant (the applicant's name and surname, permanent address, place of business and identification number of the natural person, the applicant's business name, place of business and identification number of the legal person, telephone and fax numbers)
- b) sub-item when applicable, or an item of the Combined Nomenclature of the Customs Tariff , identifying products for which the licence is requested,
- c) the name of the product, its quantity or volume in units of measurement specified in the Government Regulation, in the case of a security licence the further specification of the product,
- d) identification data of the supplier, if the applicant is not the manufacturer of the product in question, in the case of a security licence identification data of the producer,
- e) the purpose of the import or export,
- f) the proposed duration of the licence,
- g) when application is for automatic or non-automatic licences, in case of import a name of the country of the contracting party and country of origin of the product and, in case of export the name of the country of contracting party and the name of country of destination of the product
- h) the bid or contract price per unit of quantity of the imported or exported product in CZK and the total price in CZK,
- i) declaration of the applicant, when legal person signed by its statutory representative, to the effect that the information provided in the application is in harmony with the documents supplied, and that all data provided are accurate,
- j) when application is for a security licence the applicant's commitment, return to the Ministry granted licence by 10 days from the expiration date and also return it when the licence failed to be used in full or in part,
- k) when application is for an automatic or non-automatic licence, applicant's commitment return to the Ministry the granted licence by 10 days from the expiration date when the licence failed to be used in full or in part,
- l) the date of the application and the name and surname of the applicant, signature of the applicant and imprint of the applicant's seal.

(3) The application for the licence shall include the following documents:

- a) an excerpt from the Commercial Register or, in case when registration is not required under a special Act an evidence of the Trade Licence, in both cases, relating to the import or export of products in question including statement of real state of affaires,
- b) documents in pursuance of special regulation ,
- c) contract for import or export of product if importing or exporting automatic licence is in question,
- d) other documents as set forth under the Government Regulation.

(4) In addition to the requirements referred to under above paragraph 2, the applicant for the

security licence shall also state details about third countries through which the goods are to be transited, data about the foreign contracting partner, the final user and specific data about the commercial case. The Ministry may request additional data or documents from the applicant which the applicant is obliged to supply by the set time.

(5) The applicant shall to pay an administrative fee pursuant to the special Act¹⁶) before the licence is granted.

Article 69

(1) The automatic and non-automatic licences are provided for the calendar year, unless otherwise provided by the Government Regulation.

(2) The application for granting a non-automatic licence must be submitted at the latest 15 days before the period in question, unless otherwise provided by the Government Regulation.

(3) Submission of applications for automatic or security licences is not restricted in time, unless otherwise provided by the Government Regulation.

Article 70

Time Limits and Manner of Decision-making

(1) The Ministry shall decide on the application for the automatic licence by 14 calendar days from the date of reception of the application.

(2) On applications for a non-automatic licence the Ministry shall decide in order in which applications were received pursuant to their registration date and number, until the level of the quantitative limitation of the product in question. In doing so, the earlier import or export of the applicant shall be taken into account as well as previous utilisation of licences granted to the applicant.

Government may, by means of a Regulation specify proportionate allocation among all applicants who submitted their applications within the set time limit or another method for division of licences.

(3) The Ministry shall decide on the application for security licence by 60 calendar days from the date of reception of the application.

Article 71

(1) The decision about the granting of the licence shall include as follows:
a) the identification data of the applicant (the applicant's name and surname, permanent address and identification number of the natural person, the business name, place of business and identification number of the legal person)

- b) the filing number of the licence
- c) the sub-item and in the case if it is not determined an item of the combined nomenclature of the customs tariff book identifying the products for which the licence is being granted, including the total price,
- d) the name of the product, its quantity or volume expressed in units, including total price,
- e) the effective time of the licence,
- f) the name of the country of the contracting party of the applicant and the name of the country of origin of product in automatic and non-automatic export licences, the name of the country of contracting party of applicant and the name of country of destination of product in the case of export in automatic and non-automatic export licences, the name of the exporting country in the security licence,
- g) other conditions if so specified under the Government Order,
- h) the instruction about the duty to return the granted security licence by ten days from the expiration of its effective time to the Ministry also in case the licence failed to be utilised in full or in part,
- i) the instruction about the duty to return the granted automatic and non-automatic licence by ten days from the expiration of its effective time to the Ministry also in case the licence failed to be utilised in full or in part,
- j) the instruction on means of appeal,
- k) date of issue, seal and signature of the competent official of the Ministry.

(2) The decision granting the security licence may contain in addition to the data set forth under the paragraph 1 also other conditions, particularly the data about the third countries through which the goods are to be transited, data about the foreign contract partner, final user and selected data about the trade case.

(3) The decision form will include space available for the customs authorities to make records about the utilisation of the granted licence.

Article 72

(1) Automatic or non-automatic licences which are otherwise necessary for the transmission of the determinate products to the customs regime, are not required for the transmission:

- a/ samples of goods,
- b/ products within the framework of conditional duty-free regimes
- c/ products within the regime with economic effect with the exception of the regime of active refine intercourse in the system of returning and passive refine intercourse,
- d/ products imported or exported within the framework of warranty complaints because they are in a bad quality or in a contradiction with contracting conditions,
- e/ for the import or export of products which are replacements for products covered by warranty.

(2) The security licence that is otherwise necessary for the transmission of the determinate products to the customs regime or to the regressive export, are not required for the transmission:

- a/ to the regime of transit,
- b/ to the regime of the stocking in the customs stock.

(3) Automatic, non-automatic and security licence are not required for the placing of the determinate products to the free customs area or to the free customs stock.

Article 73

The automatic, non-automatic and security licences are non-transferrable. The person to which was granted by the licence must submit it to the customs office as the declaring person either himself or through direct representative*17

Article 74 Refusing of the Licence

(1) The application for automatic, non-automatic or security licence shall be refused by the Ministry if the preconditions as set forth under Article 68 fail to be met. The application for security licence shall be refused by the Ministry also if a security or other important interest of the Czech Republic so requires.

(2) The application for a non-automatic licence shall be refused by the Ministry, if trade political, environmental, healthy, security and other important interests of the Czech Republic so requires, or if the applicant was taken off a licence in a past period in pursuance of article 75, paragraph 2 (a) or 2 (b).

(3) The application for automatic, non-automatic or security licence shall be refused by the Ministry if the applicant has been in substantial default of his obligation set forth under this Act in the previous time period not exceeded one (1) year.

(4) In case when application for the licence is refused pursuant to paragraphs 1 to 3, the state shall not be responsible to the individual or legal entity for any possible damage that could rise as the result of the application for licence had been refused.

Article 75 Taking off the Licence

(1) The Ministry shall take off the granted automatic licence if the licence was granted on the base of inaccurate data or if the conditions or scope therein specified failed to be conformed with.

(2) The Ministry shall take off the non-automatic or security licence granted if

- a) the licence was granted on the base of inaccurate or incomplete data,
- b) the conditions or scope therein specified failed to be conformed with, or
- c) it is necessary due to the commercial, political, environmental, medical, security or other major interests of the Czech Republic.

(3) An appeal at the decision about taking off the licence pursuant to paragraph 1 and 2 has not delayed effect. The individual or legal entity to which the licence was taken off is obligated to return the original of the licence to the Ministry not later than by 5 days from the day of receiving of the decision on taking off the licence.

(4) In cases referred to under paragraphs 1 and 2, the state shall not be responsible to the individual or legal entity for any possible damage that could rise due to the licence had been authorizely refused.

Article 76
Authorisation Provisions

(1) Up to effective date of this Act the Government shall specify, by means of a Regulation the products which can be imported to the Czech Republic or exported from the Czech Republic only on the base of a licence in accordance with this Act if the official permit for import or export was required for them according to the regulations being in force up to the effective date of this Act. The annex of the Degree will be an examples of the applications for a granting of licence.

(2) In the regulations of the Government for the implementation of this Act under the § 8, § 19, § 21, § 29, § 35, § 38, § 40, § 41, § 43, § 45, § 48, § 62, § 65 and under the par. 1 the Government, if necessary specify conditions according to which the export or import may be realised, above all the country of export or import, quantity of products, possibility of advance and regressive using for non-integrated textile products and for the single products the requirements pursuant to § 68 paragraph 3 (b) and 3 (d), § 68 paragraph 4, § 69 par. 3 and § 70 par. 2 of this Act.

§ 77
Official Language

Investigations under Part One of this Act and licensing procedures under Part Two of this Act are conducted in Czech. All written submissions are submitted in Czech and any documentary proof must be provided with the officially attested translation into Czech. In the case where an interested party in an investigation or a participant in licensing procedures is a foreign, the ministry shall during the oral hearings authorize the presence of an interpreter registered in the Register of Interpreters, provided he has been acquired at the expense of the interested party in the investigation or the participant in licensing procedures.

§ 78
Provision of data for the purpose of this Act

(1) If statistical data regarding the volumes and customs value of the import or export for the purpose of this Act is not available from the Czech Statistical Office, it shall be provided by the Ministry of Finance - General Directorate of Customs upon request from the Ministry.

(2) The Ministry and the Ministry of Finance - General Directorate of Customs exchange on a reciprocal basis all data regarding licensing and customs proceedings, in the pace of data specified in the decision under § 71(1).

§ 79
Responsibility for Damages

The State shall not be held responsible for any damage arising from a decision taken for the reasons set in this Act as well as from the introduction of a measure under this Act; this does not impinge on the responsibility of the state under a special legal regulation¹⁸.

§ 80

Relationship with the Administrative Code

(1) Administrative Code shall not be applicable to the proceedings under Part One of Chapter I of this Act¹⁹.

(2) Unless otherwise provided in this Act, Administrative Code shall be applicable to the proceeding of the Ministry in licensing procedures under Part One of Chapter II.

§81

Relationship with International Treaties

Provisions of this Act shall apply unless otherwise provided by the international treaty binding the Czech Republic and published in the Collection of Laws; in such a case provisions of an international treaty shall be applied.

¹⁸ Act No. 82/1998 Coll.,
¹⁹ Act No. 71/1967 Coll.,

PART TWO

CHANGE OF ACT No. 42/1980 Coll., ON ECONOMIC RELATIONS WITH FOREIGN COUNTRIES

§ 82

§ 52, 53, 54, and 56 of Act No. 42/1980 Coll., on Economic Relations with Foreign Countries as amended by Act No. 102/1988 Coll., Act No. 113/1990 Coll., Act No. 513/1991 Coll., Act No. 228/1992 Coll., and Act No. 223/1994 Coll., are hereby repealed.

PART THREE

CHANGE OF ACT No. 252/1997 Coll., ON AGRICULTURE

§ 83

§ 3 in Act No. 252/1997 Coll., on Agriculture is hereby repealed.

PART SIX

§ 87

Effective Date

This Act shall enter into force on 1 July 2000.