

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 4th Cycle, 42nd Session

CZECH REPUBLIC

I. BACKGROUND INFORMATION

The Czech Republic succeeded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*) in 1993. The *1954 Convention relating to the Status of Stateless Persons (1954 Convention)* was acceded to, with reservations¹, in 2004 and the *1961 Convention on the Reduction of Statelessness (1961 Convention)* in 2001. The *1997 European Convention on Nationality* was ratified in 2004.

The asylum process in the Czech Republic is governed by the provisions of the *Act No. 325/1999 Coll. on Asylum (Asylum Act)*, as amended, the *Act No. 273/2008 Coll. on the Police of the Czech Republic*, as amended, and the *Act No. 326/1999 Coll. on the Residence of Foreigners on the Territory of the Czech Republic (Aliens Act)*, as amended. The Czech legislation is generally in line with the European Union (EU) asylum laws.² It also provides for political asylum derived from the *Czech Charter of Fundamental Rights and Freedoms*, and asylum based on family reunification and humanitarian grounds.

All applications for international protection are adjudicated at first instance level by the Department for Asylum and Migration Policy of the Ministry of the Interior (DAMP). UNHCR is not formally involved in the Refugee Status Determination (RSD) process but has access to the case files upon written consent by the applicants. The appeal procedure is conducted before administrative courts.

In general, there are no obstacles in accessing the territory of the Czech Republic, and the principle of *non-refoulement* is respected. Throughout the years, the reception conditions and the RSD procedure have continuously improved, reception conditions maintaining generally a very good standard; however, some challenges still remain, such as procedural delays.

The Czech Republic has a State Integration Programme (SIP) in place which is in line with the EU *acquis* and offers the same benefits to both refugees and subsidiary protection holders. The SIP is based on individual integration plans, which since 2017 are developed by the Refugee Facilities Administration (RFA) as the general provider of integration services and approved by the DAMP. SIP focuses on language acquisition, employment, housing, education, and social assistance. Participation is voluntary. The RFA also runs an

¹ Declarations and reservations were made regarding Articles 23, 24, 27 and 28 of the *1954 Convention*.

² The requirement under the recast EU *asylum acquis* of full and *ex nunc* judicial review of both facts and points of law of a contested first-instance decision have not been transposed nationally. Moreover, the Czech system of administrative justice is based on the cassation principle and the review in points of law, which is at odds with Article 46 (3) of the *Directive 2013/32/EU of the European Parliament and of the Council of Europe 26 June 2013 on common procedures for granting and withdrawing international protection (recast)*.

information portal on the SIP³ as well as the network of contact points for beneficiaries of international protection. The RFA also operates integration facilities across the country as a step towards successful integration.

In 2021, the Czech Republic registered 1,411 (of which 1061 were new applications, the remainder were repeated applications) asylum applications, mainly from Ukraine, Georgia, and Afghanistan. During the same period, 191 persons were granted asylum and 120 received subsidiary protection. As of the end of 2021, the Czech Republic counted 1.923 beneficiaries of international protection. A total of 1,064 refugees (574 men, 490 women) and 859 persons (451 men, 408 women) having received subsidiary protection. ⁴According to the public census (2011) there were 1,502 stateless persons in the Czech Republic.

UNHCR appreciate and commends the immense support provided by the Czech Republic towards hosting some 377,000 refugees fleeing Ukraine, including extending generous access to health, education, and employment services. From 25 February – 18 June 2022, 377,933 refugees have registered under the temporary protection directive, as well as the recently introduced national legislation LEX Ukraine. The national center for help and assistance to Ukraine (NACPU) was established to oversee the activities and coordinate the work of all the relevant authorities and the regional authorities. A network of regional assistance centers (KACPU) was set up across the country to facilitate the registration and assistance process for those arriving from Ukraine. People coming to a center are subject to registration, health and security screening and they are offered accommodation. The Czech Republic remains a commendable model when it comes to the organization of reception, accommodation, access to health and education, financial assistance, and information-sharing.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 3rd cycle UPR recommendations

Linked to 3rd cycle UPR recommendation no. 115.89: “Take further steps to ensure accountability for perpetrators of trafficking in persons (Armenia), no. 115.90: “Significantly step-up actions to combat human trafficking (Honduras) and no. 115.91: “Combat more efficiently human trafficking, particularly of women and girls (Senegal).”⁵

UNHCR commends the Czech Republic for its continued efforts to eradicate trafficking in persons in the country since its review during the 3rd UPR cycle. At the international level, the Czech Republic has acceded to the *UN Convention against Transnational Organized Crime* in 2013 and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* in 2014. In 2016, the Czech Republic signed the Council of Europe’s *Convention on Action against Trafficking in Human Beings*.

At the national level, following the adoption of the *National Strategy to Combat Trafficking in Human Beings in the Czech Republic for the period 2016–2019*, a new *National Strategy for 2020–2023*⁶ has been developed. Both strategies provide for a comprehensive framework for actions that the Government and the civil society should undertake to combat trafficking in persons. The strategic goal and specific goals of the National strategy for the period 2020-2023 are following: combating child trafficking, strengthening victim identification,

³ Available at: <http://www.integracniprogram.cz/en/>.

⁴ Ministry of the Interior, Department for Asylum and Migration Policy, (28 June 2022) available at: <https://www.mvcr.cz/clanek/souhrnna-zprava-o-mezinarodni-ochrane-za-rok-2021.aspx>.

⁵ All recommendations made to the Czech Republic during its 3rd cycle UPR can be found in: “Report of the Working Group on the Universal Periodic Review of Czechia” (27 December 2017), A/HRC/37/4, available at: [OHCHR | Universal Periodic Review - Czechia](https://www.ohchr.org/en/Universal-Periodic-Review/Czechia).

⁶ Ministry of the Interior, Department for Security Policy and Prevention of Criminality, *National Strategy to Combat Trafficking in Human Beings in the Czech Republic for the Period 2020 – 2023*, Prague 2020, available in Czech at: <http://www.mvcr.cz/clanek/obchod-s-lidmi-dokumenty-982041.aspx>.

prevention and assistance to victims of trafficking in human beings and cooperation in combating trafficking in human beings at national and international level.

The National Strategy for Combating Trafficking in Human Beings in the Czech Republic for the period of 2020 – 2023 is the sixth document that seeks to eliminate the occurrence of this crime through established measures and the establishment of deeper cooperation between individual actors in the field of combating trafficking in human beings to eliminate this type of criminal activity.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 3rd cycle UPR recommendations

Issue 1: Capacity building for the elimination of trafficking in persons

Linked to 3rd cycle UPR recommendation no. 115.89: “Take further steps to ensure accountability for perpetrators of trafficking in persons (Armenia), no. 115.90: “Significantly step-up actions to combat human trafficking (Honduras) and no. 115.91: “Combat more efficiently human trafficking, particularly of women and girls (Senegal).”⁷

The Czech Republic remains to be both a source country and a destination/transit country. It represents a source country especially for the United Kingdom, where a larger number of citizens of the Czech Republic have been identified as victims of trafficking in human beings in recent years. As for the Czech Republic as a destination country, there was a change during 2016 – 2019. In 2016, more victims from Romania, Bulgaria and Ukraine were reported. In recent years, there was an increase in victims from the Philippines that became the most common source country for the Czech Republic.

Despite the efforts of the Czech Republic to eliminate trafficking in persons, UNHCR notes that the Ministry of the Interior’s latest annual report⁸ on the matter underlines several gaps in the country’s protection system. These include an alarming trend in the use of children from children’s homes and children on the run from child facilities, to engage in prostitution, and the provision of sexual services for remuneration and the abuse of employee cardholders.

Recommendations:

UNHCR recommends that the Government of the Czech Republic:

- a) Further strengthen cooperation and capacity building on trafficking in persons among all stakeholders, including social workers in facilities for migrants and asylum-seekers, the Alien Police, and the judiciary; and
- b) Formulate standard operating procedures to the identification and protection of victims of trafficking in need of international protection, regardless of their legal status.

Issue 2: Detention policies, especially detention of children

Linked to 3rd cycle UPR recommendation no. 115.86: “Improve detention conditions (France), no. 192: Improve the situation of asylum seekers and take measures to end the detention of all refugee children (Iraq) and no. 115.193 End the detention of migrants and refugees, in particular children, whether accompanied, unaccompanied or separated

⁷ All recommendations made to the Czech Republic during its 3rd cycle UPR can be found in: “Report of the Working Group on the Universal Periodic Review of Czechia” (27 December 2017), A/HRC/37/4, available at: [OHCHR | Universal Periodic Review - Czechia](https://www.ohchr.org/en/Universal-Periodic-Review/Czechia).

⁸ Ministry of the Interior, *Report on the State of Trafficking in Human Beings in the Czech Republic for 2020*, Prague, 2021, available in Czech at: <http://www.mvcr.cz/clanek/obchod-s-lidmi-dokumenty-982041.aspx>.

(Brazil)⁹

Regarding deprivation of liberty, the Czech legislation generally provides for all procedural safeguards in line with international standards. Alternatives to detention are available for immigration detention, according to the *Aliens Act*,¹⁰ and for the detention of asylum-seekers, according to the *Asylum Act*.¹¹ While asylum-seeking children cannot be detained under any circumstances, vulnerable asylum-seekers may be detained following repeated and serious breaches of obligations imposed by an alternative measure.¹²

The Czech Republic usually does not detain asylum-seekers and uses detention mainly for the purposes of administrative expulsion. However, alternative measures have rarely been applied in practice and the routine detention of people apprehended in transit, awaiting transfers to the Member State responsible for processing their application for international protection under the *Dublin III Regulation*,¹³ including vulnerable persons such as families with children and pregnant women raise concerns.

UNHCR wishes to emphasize that the detention of asylum-seekers should only be used as a measure of last resort, and for as short a period as possible. Moreover, the best interests of the child, whether they are with their family, unaccompanied or separated, remains of paramount importance. This requires the Government to consider all possible alternatives, including unconditional release, prior to detention. In addition, as a general rule, vulnerable asylum-seekers (such as pregnant women and nursing mothers) should not be detained.

Recommendations:

UNHCR recommends that the Government of the Czech Republic:

- a) End the detention of all children for immigration-related purposes, whether accompanied, unaccompanied or separated;
- b) Implement, without delay, alternatives to detention in law and in practice, and ensure that detention is only applied as a measure of last resort, following the examination of alternatives, and for the shortest appropriate period possible; and
- c) Ensure that a vulnerability assessment and a best interest of the child assessment is made prior to any decision on detention.

Additional protection challenges

Issue 3: Statelessness

Despite the Czech Republic's accession to both the *1954 Convention* and the *1961 Convention*, UNHCR raises its concern regarding the lack of mechanisms to identify and grant protection status to stateless persons.¹⁴ UNHCR's study "Faces of Statelessness in the Czech Republic"¹⁵ was compiled in 2018 and reflects the state of events as of the end of

⁹ All recommendations made to the Czech Republic during its 3rd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Czechia" (27 December 2017), A/HRC/37/4, available at: [OHCHR | Universal Periodic Review - Czechia](https://www.ohchr.org/en/indicators/Universal-Periodic-Review-Czechia).

¹⁰ Sections 123b and 123c of the *Aliens Act* establish three alternative measures to detention: financial guarantee (bail), designation of an address with regular controls, and regular reporting obligation.

¹¹ Section 47 of the *Asylum Act* establishes two alternative measures to detention: the obligation to stay at open accommodation centers for asylum-seekers or regular reporting with the Ministry of the Interior.

¹² Section 46a (3) of the *Asylum Act*.

¹³ European Union: Council of the European Union, *Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)*, 29 June 2013, OJ L. 180/31-180/59; 29.6.2013, available at: <http://www.refworld.org/docid/51d298f04.html>.

¹⁴ According to the *UNHCR Handbook on Protection of Stateless Persons*: "[...] there is an implicit responsibility for States to identify stateless persons in order to accord them appropriate standards of treatment under the Convention.", para. 8, UNHCR 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>.

¹⁵ UN High Commissioner for Refugees (UNHCR), *Faces of Statelessness in the Czech Republic*, December 2020, available at: <https://www.refworld.org/docid/5f9cfc3234.html> [accessed 30 June 2022]

2018. Since then, there have been new developments in relation to the situation of stateless persons in the Czech Republic, including work on draft legislation introducing a statelessness determination procedure. However, many of the conclusions and recommendations remain valid.

The legal status of stateless persons and of the applicants for the statelessness status is not appropriately regulated by national legislation in force. The national legislation currently does not contain a definition of a stateless person. Moreover, there is no dedicated statelessness determination procedure in the Czech Republic. UNHCR welcomes the efforts of the Government of the Czech Republic to introduce a definition of a stateless person and a statelessness determination procedure through proposed amendments to legislation. However, the current lack of national implementation of the obligations pursuant to the 1954 Convention has specific consequences on the accessibility of rights as well as on the legality of relevant administrative and judicial procedures. Finally, no status or residence rights ensue from the recognition of statelessness within the relevant procedures and the awareness of the authorities and courts about statelessness should be improved.

Recommendations:

UNHCR recommends that the Government of the Czech Republic:

- a) Introduce a definition of a stateless person, which is in line with Article 1 of the *1954 Convention*;
- b) Establish a dedicated statelessness determination procedure with relevant procedural safeguards;
- c) Provide a legal status for applicants in the statelessness determination procedures, similar to the status accorded to asylum-seekers, drawing on the guidance in the UNHCR Handbook on Protection of Stateless Persons¹⁶; and
- d) Provide for the legal status and residence rights for persons being recognized as stateless so that they effectively lead to the acquisition of nationality, drawing on the guidance in the UNHCR Handbook on the Protection of Stateless Persons.¹⁷

Human Rights Liaison Unit
Division of International Protection
UNHCR
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¹⁶ UNHCR, Handbook on Protection of Stateless Persons, cited above, para. 145.

¹⁷ UNHCR, Handbook on Protection of Stateless Persons, cited above, para. 145.