Access to procedures and non-refoulement - Czechia

Overview

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Relevant EU legislation

Czechia is bound by the recast Asylum Procedures Directive/Regulation and has transposed its provisions through Act No 325/1999 Coll. on Asylum | Zákon č. 325/1999 Sb., o azylu, (11 November 1999)

National legislation

Act No 325/1999 Coll. on Asylum | Zákon č. 325/1999 Sb., o azylu

Competent authority and stakeholders

Area	Competent national authority	Assistance to competent authority (if applicable)
Screening at the external border	Foreign Police Service | Služba cizinecké policie	

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Area	Competent national authority	Assistance to competent authority (if applicable)
Biometric data	Foreign Police Service | Služba cizinecké policie Department for Asylum and Migration Policy (Ministry of the Interior of the Czech Republic) | Odbor azylové a migrační politiky (Ministerstvo vnitra České republiky)	
Making an application	**At the border:** Foreign Police Service | Služba cizinecké policie **On the territory:** Foreign Police Service | Služba cizinecké policie Department for Asylum and Migration Policy (Ministry of the Interior of the Czech Republic) | Odbor azylové a migrační politiky (Ministerstvo vnitra České republiky) **In detention:** Foreign Police Service | Služba cizinecké policie (onsite)	
Registering an application	Department for Asylum and Migration Policy (Ministry of the Interior of the Czech Republic) | Odbor azylové a migrační politiky (Ministerstvo vnitra České republiky)	

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Area	Competent national authority	Assistance to competent authority (if applicable)
Lodging an application	Department for Asylum and Migration Policy (Ministry of the Interior of the Czech Republic) | Odbor azylové a migrační politiky (Ministerstvo vnitra České republiky)	
Information provision	Department for Asylum and Migration Policy (Ministry of the Interior of the Czech Republic) | Odbor azylové a migrační politiky (Ministerstvo vnitra České republiky) Refugee Administration Facility (Ministry of the Interior of the Czech Republic) | Správa uprchlických zařízení (Ministerstvo vnitra České republiky)	

Access to territory

Official external border-crossing points

Czechia has 6 public external air border crossing points.

Czechia has no external land border crossing points.

Czechia has no external sea border crossing points.

Emergency measures in cases of mass arrivals

The current national law provides for the declaration of a state of emergency by the government. In the context of migration, it was declared for example in 2022

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and was terminated at the end of June of the same year. No emergency measures are in place at the moment.

The emergency law itself does not affect the availability of the international protection. However, it allows for more effective mobilization and provision of resources, for example to accommodate more people and provide for their basic needs.

Protection from refoulement

The principle of protection from *refoulement* is enshrined in legislation, which explicitly defines *non-refoulement* according to Article 3 of the ECHR. Other legal sources of protection include European jurisprudence from the European Court of Human Rights and the Court of Justice of the European Union.

The principle of *non-refoulement* is assessed once during the asylum proceedings. Depending on the case, it may be assessed twice: once during the asylum procedure and once during the return procedure. The *non-refoulement* principle is assessed within the return procedure in the return (expulsion) decision if an entry ban accompanies the decision. The police are always obliged to ask the Ministry of the Interior for a binding, written opinion on *non-refoulement*. A previous unsuccessful asylum procedure is not a reason to omit the assessment of the *non-refoulement* principle within the return procedure.

Granting, refusing or withdrawing the right of asylum shall not affect the right to protection against *refoulement*, in accordance with international law and the EU Charter.

Section 14a, paragraph 2(d) of the Asylum Act (2006): “(1) Subsidiary protection shall be granted to a foreign national who does not satisfy the criteria for asylum if it has been established in the procedure for granting international protection that a legitimate concern exists in his/her case that if the foreign national is returned to the country of which they are a citizen or, if the foreign national is a stateless person, to the country of his/her last permanent residence, they would face a genuine risk of serious harm pursuant to subsection 2 and that he/she is unable or unwilling, due to such risk, to avail themselves of the protection of the country of which he/she is a citizen or the country of his/her last permanent residence”.

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Protection from *refoulement* at external air borders

Anyone who arrives at the Czech air border has the right to apply for asylum if they fear persecution or harm in their home country. Czech law ensures that individuals are not sent back to a country where they may face danger or ill treatment. UNHCR and civil society organisations are involved in monitoring access to the territory and to the asylum procedure.

Protection from *refoulement* at external land borders

Czechia has no external land border crossing points.

Protection from *refoulement* at external sea borders

Czechia has no external sea border crossing points.

Protection from refoulement in case of emergency measures related to mass arrivals

In situations such as large-scale arrivals (for example during refugee crises), Czechia may temporarily offer protection to individuals who are fleeing widespread violence or conflict, allowing them to stay in the country while their status is assessed.

Border procedure

Border procedure is defined by the Act on Asylum, Section 73.

Procedural aspects

In Czechia, the lodging procedure overlaps with the registration of the application for international protection and is done by the Ministry of the Interior.

Making an application

Responsible authority and place

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Applications for international protection -in the sense of an initial expression of the wish to receive international protection- can be made at the border (at the airport to the competent office of the foreign police) and within the territory (to the foreign police in a reception centre, in a detention centre or at any regional office of the foreign police, or to the Ministry of the Interior when in detention, in a school facility for institutional education or custodial education, or in a facility for children in need of immediate aid).

Possibility to apply from outside the territory

Applications cannot be made to a Czech embassy abroad. Czechia does not have a scheme for issuing visas for humanitarian reasons.

Formal requirements for making an application

The commencement of the administrative proceedings to grant international protection pursuant to the Asylum Act is bound to an officially recorded written or oral declaration made by the foreigner, which clarifies their intention to apply for international protection, i.e. “declaration on international protection”. Applicants can use their own words, submit documents they prepared or they are asked to fill in a set form “Application for the Granting of International Protections (*Žádost o udělení mezinárodní ochrany*)”, available in various languages, which confirms the initial expression of the wish to receive international protection.

Once the declaration of intent to apply for international protection has been made, the foreigner is obligated to appear at the reception centre within 24 hours, where they will subsequently file an application for international protection.

An exception is only possible when the applicant cannot appear at the reception centre for objective reasons (e.g. imprisonment). In these cases, a ministry employee will visit the foreigner at the place they are located for the purpose of preparing the application for international protection as well as performing other applicable tasks. The foreigner is required to appear at the reception centre within 24 hours immediately after they are released from prison or custody.

Applicants who are in prison can also send a written application to the Ministry of the Interior by post. The Czech administrative law allows applicants to make an application by e-mail, provided that the e-mail is signed using a certified electronic signature. In practice, only a few applications are made by e-mail. Applications can also be sent by certified digital communication (data box). This

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method is mostly employed by the lawyers of applicants in detention. Making an application while being in detention for an illegal entry/stay does not have consequences on the applicant’s detention.

A foreigner's right to make an application in a detention facility expires after 7 days from the date on which he/she was informed by the police of the option to apply for international protection. The application is admissible only when the applicant experiences 'something serious’ or a major development occurs in the country of origin after the 7-day deadline.

Registering an application

Responsible authority and place

The responsibility for registering an application for international protection lies with the Ministry of the Interior. The lodging procedure overlaps with the registration of the application for international protection and is done by the Ministry of the Interior. If an application for international protection is made with the ministry, the ministry registers the application within 3 working days. If an application for international protection is made with another authority (e.g. police), the ministry registers the application within 6 working days. In practice, the registration takes place either on the same or the next working day.

Practical steps to register the application The lodging procedure overlaps with the registration of the application for international protection and is done by the Ministry of the Interior.

Data collection All applications for international protection are registered in an IT system, Asylum III (IAS AZYL III, managed by the Ministry of the Interior), which gathers all data on asylum proceedings.

The Eurodac Regulation (604/2013), Article 9 obliges Member States to promptly take fingerprints of all fingers of every applicant for international protection who is at least 14 years of age. The new Eurodac Regulation (2024/1358), Article 15 obliges Member States to take the biometric data of every applicant for international protection who is at least 6 years of age.

Documentation

The lodging procedure overlaps with the registration of the application for international protection and is done by the Ministry of the Interior. The applicant

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is issued an International Protection Applicant Identity Card (*cz. Průkaz žadatele o mezinárodní ochranu*) by the Ministry of the Interior which certifies that the holder is an applicant. The certificate also serves as an identity document. It is invalidated at the end of the procedure on paper as well as in the IT system.

Lodging an application

Responsible authority and place: The lodging procedure overlaps with the registration of the application for international protection and is done by the Ministry of the Interior.

Formal requirements to lodge an application for international protection

To lodge the application, third-country nationals use a set form (*cz. Žádost o mezinárodní ochranu*). Subsequently, the ministry delivers a written summons - at least 2 working days in advance - for applicants to provide further information in support of their application. Applicants provide information using another set form (*cz. Poskytnutí údajů k žádosti o mezinárodní ochranu*) that is filled with the assistance of an official from the Ministry of the Interior and, if required, an interpreter. The form includes information on how applicants left the country of origin, information on family ties, etc. In practice, filling this second set form usually takes place within 3-5 working days after the application is made. In specific cases (severe illness of the applicant, unavailability of interpreter, applicant is in prison/hospital), it may take longer.

Filling the second set form is done in person (it is not possible to do so by proxy) and potentially in the presence of the applicant’s legal representative. It is possible to include in the application the spouse/dependants of the applicant, but each adult must fill their own form. The parent/legally responsible adult should lodge the application on behalf of their children, using a separate form for each child.

Various practical arrangements assist the person during the lodging of an application, including interpretation, provision of written information on rights and obligations in approximately 30 languages, transport to a designated reception place, medical examination (in case of health problems), legal counselling from NGOs (upon request) and a list of NGOs and IGOs to contact.

The application process comprises other actions, including establishing the identity of an applicant, taking photographs of the applicants, fingerprinting,

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personal and luggage checks, and security check, if required.

Documentation

The applicant is issued an International Protection Applicant Identity Card (*cz. Průkaz žadatele o mezinárodní ochranu*) by the Ministry of the Interior which certifies that the holder is an applicant. The certificate also serves as an identity document. It is invalidated at the end of the procedure on paper as well as in the IT system.

Information provision

Once an application is made, the Ministry of Interior provides applicants with detailed written material “Information for International Protection Applicants”, as well as leaflets that outline the steps of the process, rights, obligations and interview requirements, as stipulated in Section 10(1). The ministry also hosts updated information on its website and the APPlicant portal, offering a comprehensive guide for all those applying for international protection.

Passport and other documents

Obligation to surrender original documents

Requirement to submit original documents

As of the 2023 amendment, the travel documents are no longer surrendered. The applicants are obliged to present the passport and MoI makes a copy of it,. It is surrendered only in case the asylum is granted.

Consequence of a refusal to surrender documents

According to Section 93 of the Asylum Act, a foreigner commits an offence if they fail to submit their travel document.

Return of original documents to the applicant

The ministry returns the travel document to the foreign national when the asylum or subsidiary protection is withdrawn or terminated.

Other documents

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The applicant shall provide all documents/items that can be used as a basis for issuing a decision. Failure to provide documents has no immediate consequences, but it could be taken into account when issuing the decision on international protection. Documents can be provided in a written format, in electronic form or on physical media (USB, CD), by e-mail or via a data box.

Requirement to read digital data

Authorities currently cannot search the applicant's digital devices. An upcoming amendment to the law on asylum will make this possible, but only for the purpose of establishing the identity of the applicant if it cannot be reliably established by other means.

Guarantees for applicants

Confidentiality principle

The applicant is informed during the procedure that none of the information communicated shall be transferred to persons outside his/her proceeding except for lawful reasons. Pursuant to Act on Asylum, Section 19(2), no information can be obtained from the originators of the persecution, nor can any information about the applicants be communicated to them. This applies throughout the proceedings and applies to all public authorities who possess information about the applicant.

Information provision

The applicants receive the document "Information for International Protection Applicants" together with the invitation to provide personal details; both is received in a written format. This document includes all important information about rights and obligations of the applicants, the next steps in the asylum procedure incl. the possibility to lodge an appeal as well as the information about their stay in Czechia and in the reception centre. Together with this, the applicants also receive the document "Provision of Free Legal Counselling by Attorneys-at-law for Foreigners."

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In addition, the Ministry of the Interior has published a leaflet with information on the procedure to grant international protection, outlining the steps of the process, rights, obligations and interview requirements, as stipulated in Section 10(1). It is offered in approximately 30 languages. There is also a leaflet on life in Czechia, which is available in Czech, English, Arabic, Ukrainian, Russian and French. The ministry also hosts updated information on its website and on the APPlicant portal, offering a comprehensive guide for all those applying for international protection in Czechia.

At the border or in transit zones, information on the right to make an application is systematically provided orally or in writing by the police. Foreigners can access advice and counselling at the border or in transit zones which is provided by the police.

In detention, information is provided to all people upon arrival and by specific indication. They are informed about their rights and obligations by the police. Information is also provided by NGOs, e.g. the Organisation for Aid to Refugees (OPU).

Links to information provided in the national context:

Authority/agency: Ministry of the Interior

Title: Information publications for applicants for international protection

Type: Leaflets

Hyperlink: https://mv.gov.cz/migrace/docDetail.aspx?docid=22081172&doctype=ART

Authority/agency: Ministry of the Interior

Title: APPlicant portal

Type: Website

Hyperlink: https://www.applicant.cz/en/

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Interpretation

Interpretation is provided free of charge during international protection proceedings and also during proceedings to leave the territory. Applicants in proceedings are also entitled to be accompanied by an interpreter of their choice at their own expense.

Legal assistance and representation

According to Section 21 of the Asylum Act, asylum seekers are entitled to free, state-funded legal aid during the asylum procedure. DAMP ensures free legal aid to applicants staying in the centres. The aid is provided by a law company which was awarded a public procurement contract to deliver legal assistance and representation.

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