First instance determination - Czechia | DIP EUAA

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Overview of first instance procedures

Relevant EU legislation

Czechia is bound by the recast Asylum Procedures Directive (APD/APR), the recast Reception Conditions Directive and the Dublin III Regulation (AMMR) and will transpose their provisions through the Act No 325/1999 Coll. on Asylum (Zákon č. 325/1999 Sb., o azylu).

National legislation

The Act on Asylum provides for the following procedures:

- The regular asylum procedure

- Special procedures
- Admissibility procedure (Section 10a)
- Border procedure (Section 73)
- Subsequent application procedure (Section 11a to 11c)
- Accelerated (Section 16)

Competent authority and other stakeholders

National authorities: The Ministry of the Interior, Department for Asylum and Migration Policy (OAMP) is responsible for examining and processing requests for international protection in the regular asylum procedure and in special procedures.

The Department for Asylum and Migration Policy is responsible for international protection, refugees, entry and residence of foreigners, policies concerning the integration of foreigners, the state integration programme and Schengen cooperation.

The Department is not responsible for the registration of applications for international protection.

The Department of Asylum and Migration Policy is divided into a number of different units. An overview is available on the official website

Staff: N/A

Other actors: Pursuant to Section 37, UNHCR is permitted to be in contact with party to the proceedings at any time, incl. to be present during interview and oral proceedings.

Types of procedures and case processing

The Asylum Act provides for the following procedures:

- The regular asylum procedure
- Special procedures

- Admissibility procedure (Section 10a)
- Border procedure (Section 73)
- Subsequent application procedure (Section 11a to 11c)
- Accelerated procedure (Section 16)

Time limit for a decision and length of the procedure

Applicable time limits for taking a decision: The standard time limit is 6 months from the lodging of the application (Section 27 of the Asylum Act). The deadline may be extended for up to 9 months when:

- complex issues of fact and/or law are involved;
- a large number of persons simultaneously apply for international protection;
- an applicant for international protection fails to perform his/her obligations according to the Act on Asylum, and therefore a decision cannot be made within the deadline.

If essential for establishing the situation beyond reasonable doubt, the deadline may in exceptional cases be further extended by up to 3 months (Section 27(3) of the Asylum Act).

Other deadlines may apply in the following cases: a) when the court returns the decision to DAMP for further examination, the time limit to issue a decision is 3 months and can be extended to 6 or 9 in complex cases; b) In case of another repeated application, where the time limit is 10 days.

Proceedings may be suspended by a ruling if, with respect to a temporarily unstable situation in the country of origin of the applicant for international protection or, if the applicant for international protection is a stateless person, in the country of his/her last permanent residence, there are no reasons to believe that a decision of the Ministry shall be issued within the deadline.

In such cases, a decision in matters of international protection must be issued at latest within 21 months of the date on which information in support of a made application for international protection has been provided, or of the date on which a

court decision to abrogate a decision of the Ministry in matters of international protection and returning the case for review.

The Ministry will inform the participant to the proceedings of the extension and its reasons in writing without undue delay (Section 27(4) of the Asylum Act).

Measures to enforce the legal time limit for processing an application: According to the Code of Administrative Procedure, Section 79, an applicant can file a lawsuit, and the court can impose the obligation to the administrative body to render a decision.

Penalty payment for exceeding processing time: There is no penalty for exceeding processing time in general. In case a legal action for failure to act is taken and the court sets a deadline which is then not respected by DAMP, a penalty may be imposed.

Quality assurance of first instance procedures

Who: Internal control mechanisms are in place; the procedures are monitored by senior staff. It is also possible to address the Public Defender of rights.

Methods/criteria: The procedures are monitored by senior staff who is following internal rules of the DAMP. There is a code of ethics and code of conduct for MOI staff.

Frequency: Quality assessments are carried out by senior officers on daily basis in each step of the asylum procedure. Public Defender of Rights can conduct an assessment based on the complaint mechanism.

Interinstitutional cooperation

There is a mechanism in place to ensure cooperation between the determining authority and appeal bodies/courts, other ministries and administrative bodies, civil society organisations and other organisations involved in the asylum procedures. This cooperation has various formats, incl. regular meetings, ad hoc meetings, joint

conferences, cooperation frameworks, information exchange, etc.)

Regular asylum procedure at first instance

Legal basis

Title III of the Asylum Act, “Proceedings in the matter of international protection and other proceedings conducted under this act”, articles 8 to 31.

Competent authority and stakeholders

The Department for Asylum and Migration Policy within the Ministry of the Interior is responsible in matters related to the regular first instance asylum procedure.

Personal interview

The personal interview is provided in Section 23 of the Asylum Act.

The interview is not conducted:

- if a decision on granting asylum may already be issued,
- if a repeated application for international protection has been submitted; in such a case, the Ministry allows the reasons for the application for international protection to be communicated in writing or in another appropriate manner,
- if the applicant is a minor, with the exception of an unaccompanied minor, or
- if the person is not fit medically to attend an interview

Assessment of an application

See assessment of an application at first instance below

Scope and outcomes of a decision

The possible outcomes include a positive decision (refugee protection or subsidiary protection) or a negative decision.

If the Ministry decides that there are no reasons for granting either form of international protection, it shall justify its decision with respect to both forms of international protection (Section 28(2) of the Asylum Act).

A copy of the decision is communicated to the applicant (Section 24a of the Asylum Act). If the applicant had a representative, the decision is delivered both to the representative and the person.

The asylum and return decisions are issued separately.

If the applicant cannot be granted with asylum, national humanitarian asylum is examined (ex officio). If she/he is not eligible for humanitarian asylum, subsidiary protection is assessed.

Withdrawal of an application

Competent authority to withdraw an application

The Department for Asylum and Migration Policy within the Ministry of the Interior is responsible for both implicit and explicit withdrawals of applications.

Implicit withdrawal

Grounds for implicit withdrawal: The Ministry of the Interior can terminate the procedure if the applicant does not attend the interview without a legitimate excuse, fails to provide information necessary for comprehensive examination of the matter, or if the applicant has entered a territory of another state illegally (Section 25 of the

Asylum Act).

Consequences of implicit withdrawal: The consequences of implicitly withdrawing an application and the decision issued in such a case. The determining authority:

- takes a decision to discontinue the examination; a return decision is issued.

If the applicant reports again to the competent authority, It is considered a new application. The previous application cannot be reopened.

Appeal against a decision to discontinue the examination due to an implicit withdrawal:

In general, pursuant to Section 30, the decision of the Ministry in the matter of international protection includes information whether it is possible to file an action against the decision, to whom it is filed, within what time limit it is possible to do so and from which date this time limit is calculated.

Section 32 specifies that an action against a decision of the Ministry may be brought within 15 days from the date of the delivery of the decision in the case of a decision to discontinue proceedings.

Explicit withdrawal

Grounds for explicit withdrawal: The Ministry of the Interior can terminate the procedure if, for example, the applicant has withdrawn the application for international protection, obtained citizenship of the EU or died (Section 25 of the Asylum Act).

The applicant can withdraw an application at any time. The applicant must request for discontinuance of the procedure in a writing form and submit it to DAMP officials in the asylum centre where he/she registered place of residence or deliver it in writing or in person (during office hours) to the MOI’s address.

How can an applicant express the wish to withdraw:

Written request submitted by the applicant.

Consequences of explicit withdrawal:

The determining authority takes a decision to discontinue the application. A report is drawn. No interview or meeting with the applicant takes place. Applicants are informed about the obligation to leave the country if they do not have a residence permit. In case needed, interpretation is also available.

Appeal against a decision to discontinue the examination due to an explicit withdrawal:

In general, pursuant to Section 30, the decision of the Ministry in the matter of international protection includes information whether it is possible to file an action against the decision, to whom it is filed, within what time limit it is possible to do so and from which date this time limit is calculated.

Section 32 specifies that an action against a decision of the Ministry may be brought within 15 days from the date of the delivery of the decision in the case of a decision to discontinue proceedings.

Personal interview

Competent authority: Interviewers

Qualifications: The recruitment process of civil servants is regulated by the Act No. 234/2014 Coll., on Civil Service.

The Civil Service Act regulates the prerequisites and professional requirements for employment and the selection process for filling a vacant position. The selection procedure is described in detail on the website of the Ministry.

Special procedural guarantees during the interview

Accompanied minors: Under Article 23 paragraph 2 of the Asylum Law, minors (younger than 18 y.o.), except for unaccompanied minors (UAMs) are not interviewed, unless the interview is considered as essential for the purpose of the examination. To that end, it is assessed to what extent a minor can contribute to the establishment of material facts during the personal interview.

Unaccompanied minors: There is no legal or indicative minimum age for interviewing unaccompanied minors.

Victims of trafficking or other forms of violence: Victims of human trafficking, persons who have been subject to torture, rape and/or other forms of psychological, physical or sexual violence are assisted during the interview by a psychologist or a close person.

Dependent adults may or may not undergo a personal interview, depending on their capacity to contribute to establishing the facts of the case.

Applicants with disabilities and/or other health issues: Applicants whose legal capacity is limited and cannot act on their own due to health problems will also be assigned a guardian from the OAMP for the purpose of the proceedings. Such provision applies for the following vulnerable categories: disabled people, elderly people, and persons with serious illnesses.

Persons with mental health conditions and intellectual disabilities are provided with guardianship by default.

Possibility to omit the personal interview

Interview omission: there are cases, where the personal interview may be omitted, as provided for in the Act on Asylum, Section 23(2). The reasons are usually based on legal provisions, it is therefore evident why the interview was not conducted In case there is a specific reason why the interview was not conducted, it will be documented in the decision and the reasoning is provided in the applicant's file. In case the personal interview is omitted, written submission and supplementary

evidence can be presented on behalf of the applicant.

Positive decision	Yes. Act on Asylum, Section 23(2). An interview shall not be conducted: a) if a decision to grant asylum may already be issued, or c) if the applicant for international protection is a minor, with the exception of an unaccompanied minor, unless an interview is essential for establishing the state of affairs beyond reasonable doubt.
Previous meeting - essential information	No
Issues raised are not relevant or of minimal relevance	No
Safe country of origin	No
Safe third countries	No
Inconsistent, contradictory, improbable, insufficient representations	No
Subsequent application	An interview shall not be conducted: […] b) if making a repeat application for international protection; in such case, the Ministry shall allow the applicant to provide the reasons for his/her application for international protection in writing or in another suitable manner
Application to merely delay/frustrate enforcement	No
Not reasonably practical to conduct it	N/A

Applicant unfit or unable to be interviewed	Yes (reasons for applying described in writing or in another suitable manner)

Organisational aspects

Preparation and timing of the interview: In most cases applicants are interviewed shortly after they lodge their applications.

Prior to the interview, the assigned asylum official has access to the applicant's file, including all personal documents and evidence submitted, and to internal COI reports in order to prepare for the interview.

Information provision (before the personal interview)

Applicants are informed on the place and time of the interview through a written summon delivered via post or in person (e.g. when in reception centre or detention) at least two working days before the set date. The summon is written in the applicant’s mother tongue, or in a language that s/he understands.

Applicants are informed by competent officials about the specifics of the interview in more than one occasion, briefly in the information document they receive before the interview,, and at the outset of the interview. Information is provided to applicants in writing and covers the following areas:

- The existence of an interview and its purpose
- Applicants' rights and obligations
- Confidentiality of information provided by the applicant during the interview
- Possibility to choose an interviewer and an interpreter of a specific gender

Modalities of carrying out the interview

No specific rules exist as to the hearing room arrangements. Remote interviews are not organised via video conference nor via phone.

Choice of gender of the interviewer/interpreter

Applicants have the possibility to choose the gender of the interviewer and the interpreter (note: interpreter of the same gender as the applicant is envisaged by law). In reasonable cases or upon explicit request, the MOI will ensure - if this falls within its capacity - that the interviewer and the interpreter are of the same sex as the applicant. If it's not available - not.

Objecting to the interviewer/interpreter

Applicants can object to the interviewer assigned. Objection to the interpreter may be also expressed on grounds of nationality, among others. In both cases, reasonable grounds for doing so need to be provided. Information on the above is communicated proactively to applicants in advance. It is up to the Head of the Asylum Service to decide on the matter.

Language and interpretation

The applicant’s language preference is always taken into account if an interpreter from the respective language is available. Applicants are entitled to an interpreter free-of-charge, with the cost being covered by the state. Applicants can declare in which language they wish to conduct the interview during the registration of their application. The provision of interpretation services is organised through a contracted company. Interpreters are required to be members of a particular professional organisation, while preference is given to legally sworn certified interpreters. If no interpreter is available for the language that an applicant has indicated as preferred, there is the option of double translation. If applicants wish so, they can invite another interpreter of their choice, but at their own expense and the official interpreter has to be present. Interpreters are bound by confidentiality, either because they are court interpreters or by signing a confidentiality agreement (which is part of their interpreter’s oath).

Persons present during the interview

Third parties allowed to be present during the personal interview include:

- The legal representative, who remains silent throughout the interview and can present remarks at the end.
- The legal representative/guardian in case of minors (silent presence)
- A trusted person of choice, who remains silent throughout the interview and can present remarks at the end.
- A UNHCR representative; this person remains silent throughout the interview and can present remarks at the end and

The presence of family members is allowed in cases of accompanied children. It may also be allowed upon explicit request of the applicant and on a case-by-case basis, if deemed necessary.

Structure/steps of the interview

Information is not currently available

Audio/Video recording and written report

A final verbatim written report is produced for each interview. Applicants are asked to approve the report, which is translated verbally by the interpreter, and have the opportunity to rectify or clarify information included there Applicants and/or their representatives may take a picture of the report on their mobile phone. As the report becomes a part of the file, DAMP doesn’t make a copy of it for applicant (section 23a of the asylum code)

Postponing the personal interview

It is possible for the applicant to request the postponement of the personal interview upon justified medical grounds. Postponement may also take place upon other valid grounds depending on personal circumstances.

Failure to appear

In case applicants fail to appear for a personal interview without valid justification, the procedure may be ceased according to the Asylum Act, if the decision cannot be made on the basis of the facts established to date.

Other aspects

Second or follow-up personal interview: If it is necessary to ascertain the facts of the case, a second or follow-up personal interview may take place.

Special asylum procedures at first instance

Admissibility procedure

NB: *Kindly note that at the moment, the procedures in CZ are not as strictly separated as indicated in these sections, i.e. to Admissibility procedure, Accelerated procedure, Border procedure and Subsequent application.*

According to the Act on Asylum, an application for international protection is inadmissible:

a) if made by a citizen of the European Union who does not meet the conditions stipulated by European Union law,

b) if another state bound by a directly applicable regulation of the European Union is responsible for examining the application for international protection,

c) if the applicant for international protection has been awarded international protection by another European Union Member State,

d) if the applicant for international protection could have found effective protection in the first asylum country,

e) if the foreign national has made a repeat application for international protection which the Ministry has been deemed inadmissible pursuant to Section 11a(1) of the Act on Asylum,

f) if the applicant for international protection arrives from a state that the Czech Republic regards as a European safe third country, unless the applicant for

international protection proves that in his/her case that state cannot be regarded as such, or

g) if the applicant for international protection who is not an unaccompanied minor arrives from a state that the Czech Republic regards as a safe third country, unless the applicant for international protection proves that in his/her case that state cannot be regarded as such.

If an application for international protection is inadmissible, the applicant for international protection shall not be assessed as to whether he/she satisfies the criteria for granting asylum or subsidiary protection.

Competent authority and other stakeholders

The Department for Asylum and Migration Policy within the Ministry of the Interior is responsible to carry out the admissibility procedure.

Procedural aspects

The admissibility procedure is assessed by the case officer in accordance with the above-mentioned national legislation. The conduct of personal interview is contingent on the type of case at hand following the categorisation of the first section:

- In the case a), the interview is not usually conducted.
- In case b) the interview is usually carried out on information relevant to the Dublin procedure.
- In case c) the interview is usually carried out.
- In case d) the interview is usually carried out.
- In case e) the interview is usually not carried out.
- In case f) the interview is usually conducted.
- In case g) the interview is usually carried out.

There is no limit to the number of interviews, if any. However, the entire procedure is carried out uniformly, together with the overall assessment of the application; it is not a separate procedure, but only a specific form of decision.

Decision and time limits to decide

A decision is always issued. No special time limit, but the general time limit as for all decisions applies. However, there are time limits related to the Dublin procedure – time limits do not apply to the decision issuance, but to the steps taken during the procedure. If the time limit is not respected, CZ is responsible for the assessment of the application.

Appeal

The relevant legal provisions concerning the first appeal in asylum cases for status determination are included in Section 10a and Section 32 of Act No 325/1999, Asylum Act. The competent authorities for first appeal instance are Administrative Chambers within the Regional Court| Krajský soud. The Supreme Administrative Court is competent for cassation appeal. According to the law, a time limit of 15 days from the date of delivery of the decision applies in appeals against:

- a decision to reject the application as manifestly unfounded;
- a decision on the suspension of the proceedings;
- a decision of the ministry in the matter of international protection, if the applicant is detained or if the applicant was refused entry to the territory (Section 32(1)(a) Act No 325/1999, Asylum Act).

There is no automatic suspensive effect for the appeal lodged with the regional court or with the Supreme Administrative Court, but the applicant can request the suspension of the implementation of the decision, together with the lodging of the appeal (Section 73 of Act No 150/2002, Code of Administrative Justice). The time limit for the regional administrative court or the Supreme Administrative Court to decide on an application for suspensive effect is 30 days (Section 73(4) of Act No 150/2002, Code of Administrative Justice).

A time limit of 1 month from the date of delivery of the decision applies for cases not mentioned in letter (a), and a time limit of 2 months applies when instructions on how to appeal were missing, incomplete or incorrect pursuant to Section 31 of the Asylum Act (Section 32(1)(c) Act No 325/1999, Asylum Act).

Two are the possible outcomes of the decision:

1. Annulment of the appealed decision and referral to the Ministry to decide on the case;
2. Confirmation of the appealed decision.

Impact on reception conditions

information is not currently available

Accelerated procedure

Legal basis and grounds

Accelerated procedure is described in Section 27 (5) and Section 16 of Act No 325/1999, Asylum Act.

Competent authority and other stakeholders

The Department for Asylum and Migration Policy (DAMP) within the Ministry of the Interior

Procedural aspects

No specific tracks created for the processing of cases. The rights of the applicants are the same as throughout the whole procedure.

There is usually only one interview for the whole procedure, i.e. no special admissibility interview.

Pursuant to Section 16 (5) of Act No 325/1999, Asylum Act, unaccompanied minors are exempt from the accelerated procedure.

Decision and time limits to decide

A decision is always issued. The decision does not include a return decision, but only information as to whether conditions for protection are met. In case of procedure pursuant Section 16 of Act No 325/1999, Asylum Act (manifestly unfounded application), the decision shall be issued within 90 days from the registration date. If

the time limit is not respected, the decision must be issued within standard procedure. The consequence of accelerated procedure is denying application as manifestly unfounded. If the conditions in Section 16 are not met, the decision is issued within standard procedure (positive or negative).

Appeal Section 16 Act No 325/1999, Asylum Act outlines the appeal procedure under accelerated procedures. The competent authorities are the regional administrative courts for the appeal. The Supreme Administrative Court for cassation (source: EMN Ad-Hoc Query on Accelerated asylum procedure before first instance decision for nationals of safe countries of origin (May 2017)).

The time limit to lodge an appeal is 15 days from the date of delivery of the decision (Section 32(1)(a) of Act No 325/1999, Asylum Act)

There is no automatic suspensive effect in the case of some grounds for decisions to reject the application as manifestly unfounded:

- The applicant misled the authorities by presenting false information or documents, having more than one nationality, the applicant destroyed or disposed of an identity or travel document or refused to comply with an obligation to have his or her fingerprints taken).
- When the rejection is based on the safe country of origin (source: EMN Ad-Hoc Query on Accelerated asylum procedure before first instance decision for nationals of safe countries of origin (May 2017); EMN Ad-Hoc Query on accelerated asylum procedures and asylum procedures at the border (February 2017)).

In cases without automatic suspensive effect, the applicant can request the suspension of the implementation of the decision together with the lodging of the appeal. The time limit to request suspensive effect is the same time limit as for filing an appeal (hence 15 days for manifestly unfounded decisions) (Section 32(2) of Act No 325/1999, Asylum Act). Decisions on suspensive effect are issued within 30 days (Section 73(4) of Act No 150/2002, Code of Administrative Justice).

The decision is suspended until the expiry of the time limit to lodge an appeal only in cases of automatic suspensive effect. In cases without automatic suspensive effect,

suspensive effect must be requested separately upon application. In this regard, there are no differences between the accelerated procedure for nationals of safe countries of origin and the standard asylum procedure (source: EMN Ad-Hoc Query on Accelerated asylum procedure before first instance decision for nationals of safe countries of origin (May 2017)).

In onward appeals at the Supreme Administrative Court there is only automatic suspensive effect if the filing of an action in the matter of international protection in the first appeal had suspensive effect (Section 32(5) of Act No 325/1999, Asylum Act). The applicant can also apply again at the Supreme Administrative Court for the suspensive effect.

According to the Code of Administrative Justice, these cases are generally decided as a matter of priority. However, the time limit is 60 days if the applicant is in detention, or in Dublin procedures (Section 32(6) of Act No 325/1999, Asylum Act), in case of refusal to enter the territory and if the applicant is waiting in the reception center at the airport (Section 32(7) of Act No 325/1999, Asylum Act). There are also deadlines for specific cases of concurrence of asylum proceedings and extradition (Section 32(4) of Act No 325/1999, Asylum Act).

Impact on reception conditions

Reception conditions are not impacted when an applicant is channelled into this procedure. Applicants get reception/accommodation in a regular reception facility until a decision is rendered. There is no impact on material reception conditions if the time limit for issuing a decision is not observed. Reception conditions are the same throughout the whole procedure, including the appeal procedure.

Border procedure

Legal basis and grounds

According to Section 73 of the Asylum Act, the border procedure applies to individuals arriving at the external borders without the necessary documents to enter the Czech territory, who wish to make an application for international

protection. Czechia has external borders only at the international airports – mainly the border at the Prague International Airport.

Competent authority and other stakeholders

The Department for Asylum and Migration Policy within the Ministry of the Interior is responsible in matters related to border procedure.

Procedural aspects

Third Country Nationals making an application at the border are accommodated in the ‘closed reception centre’ in the transit area of the airport.

The main reasons under which the MOI may refuse the applicant’s entry to the territory of the Czech Republic are as follows:

- It is necessary to establish or verify the applicant’s identity.
- The applicant presented forged or altered identity documents and his/her identity is otherwise unknown.
- There is a good reason to suspect the applicant poses a threat to state security, public health or public order.
- There is a risk of impeding of the asylum proceedings and failing to provide necessary cooperation.
- There is a risk of absconding or obstructing the possible Dublin transfer.

In case the decision of MOI refuses the applicant’s entry to the territory of the Czech Republic, the applicant is obliged to stay in the closed reception facility at the international airport, and the asylum procedure pursuant to the recast APD standards is conducted during the applicant’s stay there. In this case, the MOI will be obliged, in accordance with the APD and its transposition into the Act No. 325/199 Coll., to issue the decision on the asylum application within 4 weeks after the application is lodged.

The decision of the MOI on the applicant’s obligation to stay in close reception facility has no influence as regards the decision making process on the merit of the lodged asylum application. As such, the decision of the MOI on refusal of entry has also no return consequences.

There is usually only one interview for whole procedure, i.e. no special interview for border procedure.

Decision and time limits to decide

The time limit for deciding is 5 days from the lodging of an application (Section 73(3) of the Asylum Act).

The Ministry of Interior shall issue a decision allowing or refusing entry to the territory for the applicant (Section 73 of the Asylum Act).

The main reasons under which the Ministry of the Interior may refuse the applicant's entry to the territory of Czechia are as follows:

- It is necessary to establish or verify the applicant's identity.
- The applicant presented forged or altered identity documents and his/her identity is otherwise unknown.
- There is a good reason to suspect the applicant poses a threat to state security, public health or public order.
- There is a risk of impeding of the asylum proceedings and failing to provide necessary cooperation.
- There is a risk of absconding or obstructing the possible Dublin transfer.

In case the decision of the Ministry of the Interior refuses the applicant's entry to the territory of Czechia, the applicant is obliged to stay in the closed reception facility at the international airport, and the asylum procedure pursuant to the recast APD standards is conducted during the applicant's stay there. In this case, the Ministry of the Interior is obliged, in accordance with the APD and its transposition into the Asylum Act, to issue the decision on the asylum application within 4 weeks after the application is lodged.

The decision of the Ministry of the Interior on the applicant's obligation to stay in close reception facility has no influence as regards the decision-making process on the merit of the lodged asylum application. As such, the decision of the Ministry of the Interior on refusal of entry has also no return consequences.

Appeal

Section 32(1)(a)(3) and Section 73, Act No 325/1999, Asylum Act outline the appeal system under border procedures. The Regional Court in Prague is competent for deciding on the appeal (Section 73(6) Act No 325/1999, Asylum Act). Against decisions not to allow entry into the territory, the time limit to lodge an appeal is 30 days from the date of delivery (Section 73(6) of Act No 325/1999, Asylum Act). Against manifestly unfounded decisions, where the accelerated procedure applies, the time limit to lodge an appeal is 15 days from the date of notice of the decision (Section 32(1)(a) of Act No 325/1999, Asylum Act). Against inadmissible decisions, the appeal is lodged within 15 days. Suspensive effect is not automatic, but the applicant can request the suspension of the implementation of the decision together with the lodging of the appeal. The regional administrative court must decide on the request for suspensive effect within 30 days (Section 38(3) of Act No 150/2002, Code of Administrative Justice). If no appeal has been filed against the Ministry's decision, or if no suspensive effect has been granted by the court, the applicant is obliged to remain in the reception centre at the international airport for the purpose of leaving the territory for a maximum of 30 days (Section 74(5) of Act No 325/1999, Asylum Act). There is also no automatic suspensive effect before the Supreme Administrative Court (Section 32(5) of Act No 325/1999, Asylum Act). he appeal can be lodged through the Ministry (only against the decision not allowing entry to the territory) or directly at the locally competent regional court (Section 73(6) of Act No 325/1999, Asylum Act). If the appeal is filed through the Ministry, the Ministry has 5 working days from the date of delivery of the appeal to submit the application, the statement of claim and the administrative file to the court. If requested by one party, the court orders a hearing not later than 5 days from the date from which the appeal was lodged. The applicant is informed of this in the legal information of the decision of the Ministry. If the court decides to annul the contested decision, the Ministry is notified immediately (Section 73(7) of Act No 325/1999, Asylum Act). No earlier than 15 days after the date on which the last decision of the Ministry or the court on the refusal to allow entry into the territory came into force, an applicant can apply for permission to enter the territory, even if it is a repeated application for permission to enter the territory (Section 73(9) of Act No 325/1999, Asylum Act).

The Regional administrative court must decide as a matter of priority within a maximum time limit of 60 days. The Supreme Administrative Court has to decide as

a matter of priority within a maximum time limit of 45 days from the date on which the cassation complaint was filed (Section 32(7) of Act No 325/1999, Asylum Act).

Two are the possible outcomes:

Annulment of the contested decision and entry to the territory without undue delay (Section 73(7) and 74(2)(c) of Act No 325/1999, Asylum Act).

Confirmation of the contested decision to refuse entry to the territory. The decision on the application for permission to enter the territory is not final and can be repeated (Section 73(9) of Act No 325/1999, Asylum Act).

Impact on reception conditions

Third country nationals making an application at the border are accommodated in the ‘closed reception centre’ in the transit area of the airport. There is a reception centre established at the Prague airport. In case of pressure, the law allows the transfer to a centre nearby the airport while considering that these persons were not granted entry into the territory.

Subsequent application procedure

Legal basis and grounds

The applicable legal provisions in national law are outlined by Sections 11a to 11c of the Asylum Act.

Competent authority and other stakeholders

The Department for Asylum and Migration Policy within the Ministry of the Interior are responsible in matters related to subsequent application procedure.

Procedural aspects

The Ministry will first assess the admissibility of the repeated application for international protection, and whether the applicant has stated or whether new facts or findings have emerged that were not, through no fault of the applicant, the

subject of an examination of the grounds for granting international protection in a previous procedure and indicates that the applicant could be subject to persecution or that he or she is at risk of serious harm.

If the repeated application is not inadmissible, the Ministry will decide whether or not to grant international protection, unless another procedure is justified.

Pursuant to Section 23 (2) of Act No 325/1999, Asylum Act, no personal interview is conducted.

In case of the first subsequent application, the applicant continues to receive material reception conditions. In case of another subsequent application, the applicant is not entitled to material conditions.

The decision on discontinuation of another subsequent application must be made within 10 days.

Decision and time limits to decide

If the application is inadmissible, the Ministry will terminate the proceedings by resolution. The resolution is notified to the third country national or deposited for a period of 10 days in the asylum facility where he/she was last registered for residence. Filing an action against the resolution to suspend the proceedings does not have suspensive effect.

Appeal

Legal basis in national law is Section 11a-11c and Section 32, of Act No 325/1999, Asylum Act. The regional administrative courts are competent for the appeal. If the subsequent application is inadmissible, the time limit is 15 days from the delivery of the decision (Section 32(1)(a) no 2 in conjunction with (Section 25(i) of Act No 325/1999, Asylum Act. If the decision is simply unfounded, the time limit is 1 month (Section 32(1)(b) of Act No 325/1999, Asylum Act). If the subsequent application is inadmissible, the appeal does not have automatic suspensive effect. The time limit to request suspensive effect is the same time limit as for filing an appeal (15 days for inadmissible decisions) (Section 32(2), Section 32(1)(a) no 2 and Section 25(i) of Act No 325/1999, Asylum Act). If the subsequent application is admissible and the

Ministry decides on the merits, the decision can be well-founded, simply unfounded or manifestly unfounded. The time limit to request suspensive effect is the same as for filing an appeal (15 days for manifestly unfounded decisions) (Section 32(2), Section 32(1)(a) no 1 of Act No 325/1999, Asylum Act). If the decision is unfounded, the appeal has automatic suspensive effect (Section 32(2) of Act No 325/1999, Asylum Act). There is no time limit for decision, the outcome of an appeal for subsequent applications consist on the annulment of the contested decision and referral to the Ministry to decide on the case or confirmation of the appealed decision.

Impact on reception conditions

Reception conditions are not impacted when an applicant is channelled into this procedure. Applicants get reception/accommodation in a regular reception facility until a decision is rendered. There is no impact on material reception conditions if the time limit for issuing a decision is not observed. Reception conditions are the same throughout the whole procedure, including the appeal procedure.

Last-minute application pending removal

Last-minute applications lodged by first time applicants pending a removal

In these cases admissibility/accelerated procedure is applied. No specific reception conditions are in place. According to Section 16 (1) g) of Act No 325/1999, Asylum Act, a decision that the application is inadmissible is issued and accelerated procedure is applied (decision issued within 90 days).

Last-minute applications lodged as subsequent applications pending a removal

Same as above: In these cases admissibility/accelerated procedure is applied. No specific reception conditions are in place. According to Section 16 (1) g) of Act No 325/1999, Asylum Act, a decision that the application is inadmissible is issued and accelerated procedure is applied (decision issued within 90 days).

Safe country concept

Safe country of origin

The concept of a safe country of origin is defined in the Act on Asylum (325/1999 Coll), Section 2, (1, k). This concept is applied in practice within an accelerated procedure.

The national list of safe countries of origin was first adopted in 2015 through the Decree 328/2015 Coll implementing the Act on Asylum and Act on Temporary Protection of Foreigners. of 3 December 2015. Since 2015, it is revised by the Ministry of Interior at least once a year.

According to the Act on Asylum (325/1999 Coll), Section 2, (1, k), a safe country of origin means the country of which the foreign national is a citizen or, if the foreign national is a stateless person, the country of his/her last permanent residence:

- where widespread and systematic prosecution, torture, inhuman or degrading treatment or punishment does not occur and where there is no threat of indiscriminate violence due to international or internal armed conflict,
- whose citizens or stateless persons have not left for reasons specified in Section 12 (grounds for refugee status) or 14a (grounds for subsidiary protection),
- that has ratified and observes international conventions on human rights and fundamental freedoms, including laws relating to effective remedial measures, and
- that permits the operation of legal entities that monitor the degree to which human rights are respected.

When assessing whether a country of origin is safe, information is obtained from a wide range of information sources, both governmental (primarily from the Ministry of Foreign Affairs) and non-governmental. In addition, if another Member State has designated a country as safe, it is taken into account.

On 1 October 2023, Decree 328/2015 was updated. Armenia and UK were added to a list of safe countries of origin, while Ukraine was removed. In addition, exceptions were removed for Georgia and Moldova.

National list of safe countries of origin:

1. Albania
2. Algeria
3. Armenia
4. Australia
5. Bosnia and Herzegovina
6. Montenegro
7. Ghana
8. Georgia
9. India
10. Iceland
11. Canada
12. Kosovo
13. Liechtenstein
14. North Macedonia
15. Morocco
16. Moldova
17. Mongolia
18. Norway
19. New Zealand
20. Senegal
21. Great Britain and Northern Ireland
22. United States
23. Serbia
24. Switzerland
25. Tunisia

Safe third country

The concept of a safe third country is defined in the Act on Asylum (325/1999 Coll), Section 2, (1, l).The Ministry of the Interior reviews the lists of countries defined by decree at least once per calendar year. However, the concept has not been applied in practice and no list of safe third countries has been adopted. (Decree 328/2015 Coll. of 3 December 2015).

First country of asylum

The concept of a first country of asylum is defined in the Act on Asylum (325/1999 Coll), Section 2, (1, o). The first country of asylum means a state other than the state of which the foreign national is a citizen or, if the foreign national is a stateless person, a state other than the state of his/her last permanent residence where the foreign national had been staying before he/she entered the territory, if such other state has granted him/her refugee status pursuant to an international agreement), and if the foreign national may still enjoy such protection and may safely return to such other state.

This concept is applied within an admissibility procedure.

European safe third country

The concept of European safe third country is defined in the Act on Asylum (325/1999 Coll), Section 2, (1, m). A European safe third country means the country of which the foreign national is a citizen or, if the foreign national is a stateless person, the country of his/her last permanent residence, which:

- has ratified and complies with an international agreement governing the status of refugees and observes its provisions without geographical limitation
- has ratified and complies with the European Convention on the Protection of Human Rights and Fundamental Freedoms, including laws concerning effective remedial measures

- has legally regulated asylum proceedings, and it has been established that the foreign national entered or intended to enter the Territory from the said state unauthorised.

However, the concept is not applied in practice. Formally, Moldova and Montenegro are on the list, but in practice, there are no cases where the concept could be applied.

Assessment of an application at first instance

Legal provisions relevant for an assessment

Act on Asylum.

Competent authority for the assessment

Required qualifications: The recruitment process of civil servants is regulated by the Act No. 234/2014 Coll., on Civil Service. The Civil Service Act regulates the prerequisites and professional requirements for employment and the selection process for filling a vacant position. The detailed procedure of the selection procedures is described in detail on the website of the Ministry.

Training: Training is ensured and is provided by senior officers.

Grounds

Grounds for asylum are outlined in the Asylum Act, Article 12. A foreigner may be granted international protection if it is found that:

a) they are persecuted for exercising political rights and freedom or

b) has a well-founded fear of being persecuted on the grounds of race, sex, religion, nationality, membership of a particular social group or political opinion in the state of which he/she is a citizen or, if he/she is a stateless person, in the state of his/her last permanent residence.

According to article 14a and 14b of the Asylum Act, reasons for granting subsidiary protection are related to the real risk of serious harm that the applicant would face in case of return to the state of his last permanent residence. Serious harm is considered to be

a) the death penalty or execution;

b) torture or inhuman or degrading treatment or punishment of an applicant for international protection;

c) serious threat to a civilian's life or human dignity by reason of indiscriminate violence in a situation of international or internal armed conflict.

Guidelines for case officers

Internal guidelines that are not publicly available. A template for drafting the decision might be used.

Credibility assessment

Assessment of facts and circumstances when aspects of the applicant’s statements are not supported by documentary or other evidence

In general, the assessment is based on the provisions of the Qualification Directive.

Time limit for submitting evidence during credibility

Applicants can submit supporting evidence at any time.

COI research

See COI Unit below

Decision and outcomes

Possible outcomes of the first instance determination procedure may include:

- asylum pursuant to 12a/12b,
- national humanitarian asylum
- subsidiary protection
- rejected as manifestly unfounded (reasons in Section 16),
- discontinued as inadmissible (reasons in Section 10a),
- discontinued for other reasons (Section 25).
- international protection is not granted
- neither asylum nor subsidiary protection can be granted (exclusion),
- asylum is not/granted
- subsidiary protection cannot be granted (exclusion from DO).

For all types of decisions, there is a uniform preset template with MOI heading.

A return order is not issued together with the decision.

For family units, the decision is issued separately for each adult, but in case of minor children, it is issued together with the decision of the legal representative, usually the mother.

At the end of the decision, there is always information on the possibility of an appeal, information on the suspensive effect and time limit and the place for filing an action.

The decision is handed over to the applicant in person in reception facility, or by post. If the applicant is represented, a representative is also invited to take over the decision. The decisions come into force on the day of handover. If the applicant does not appear on the date for which he/she was invited to do so, the decision becomes final.

Minors and unaccompanied minors: When the decision is for a family unit, the legal representative (usually parent) would be notified.

COI units

Background information

COI unit: The COI team operates within the International and European Affairs Unit, which is part of the Department for Asylum and Migration Policy of the Ministry of the Interior. There are no further internal divisions within the COI team. There have not been significant changes in the organisational structure since 2014.

Legal basis: There is no legal instrument regulating the function of the COI unit.

Structure and capacity

Organisation: The COI team is part of the International and European Affairs Unit, in the Department for Asylum and Migration Policy, within the Ministry of the Interior. There are no further internal divisions within the COI team. There have not been significant changes in the organisational structure since 2014.

Mandate and tasks: In addition to addressing queries by case officers about the situation in countries of origin, the COI team also manages queries related to the Dublin procedure and other immigration-related procedures.

Staff capacity: 5 employees/researchers

Requirements: Regular training and updates: There are no specific requirements for COI specialists, but background in social sciences is preferred. Currently, the COI Unit is comprised of four employees/researchers.

COI employees undertake general training on key countries of origin. In addition, staff are specifically trained to carry out COI research (EUAA COI Training) and usually have several years of experience in COI research. Members of the COI team have a regional specialisation (post-soviet countries, Asia, Middle East and North Africa, Africa and Europe),however, every member of the COI team may deal with queries on any country regardless of his/her specialisation, if either a country expert is not available at the moment, or the COI team faces an increased workload.

COI products

Type of COI products produced and frequency: The COI team mainly produces brief reports (4-10 pages) on specific issues based on queries by case officers. In 2024, approximately 75 reports were published, in 2025, it has been approximately 60 reports as of the end of August. It also produces specific COI reports for the Dublin procedure and other immigration-related procedures. The COI team also replies to queries related to various types of residence permits and the Dublin system. Since 2016, briefs on several countries (general/Dublin-related) have been drafted and updated annually. The COI Unit provides consultations by email if COI is requested but a report is not necessary.

Languages: The sources consulted are mainly in English, Russian and French. The final COI products are produced in Czech.

Methodology and sources: The replies to queries follow the EUAA recommended methodology and internationally recognised standards on COI research, e.g. Accord/Austrian Red Cross, Researching Country of Origin Information. Information from national (the Czech Press Agency) and international media (BBC, CNN and other) and various professional periodicals and literature (including reports by non-governmental organisations) are regularly used. The sources also include reports produced by COI Units in other countries. If necessary, oral sources (academics,

journalists, NGOs) are consulted.

Czech embassies in countries of origin provide information as well through the query system within a relatively short timeframe (approximately 1-2 months).

The COI team conducts fact-finding missions. In 2024, the COI team carried out fact-finding missions on Belarus and Russia. These took place in Vilnius, Lithuania, and Warsaw, Poland, respectively. In addition, two fact-finding missions have been planned for 2025. In May 2025, the fact-finding mission to Syria (Damascus) was conducted.

Quality check: COI products undergo a quality check prior to publication/dissemination through an internal review.

Other aspects of COI units

Information currently not available.