

Input by civil society to the 2021 EASO Asylum Report

Dear Colleagues,

The production of the *EASO Asylum Report 2021* is currently underway. The annual [Asylum Report series](#) present a comprehensive overview of developments in the field of asylum at the regional and national levels.

The report includes information and perspectives from various stakeholders, including experts from EU+ countries, civil society organisations, UNHCR and researchers. To this end, we invite you, our partners from civil society, academia and research institutions, to share with us your reporting on developments in asylum law, policy or practice in 2020 (and early 2021) by topic as presented in the online survey.

Please note that the EASO Asylum Report does not seek to describe national systems in detail but rather to present key developments of the past year, including improvements and challenges which remain. Your input can cover practices of a specific EU+ country or the EU as a whole. You can complete all or only some of the sections.

All submissions are publicly accessible. For transparency, 2021 contributions will be published on the EASO webpage. Contributions to the 2020 EASO Asylum Report by civil society organisations can be accessed [here](#), under 'Acknowledgements'. All contributions should be appropriately referenced. You may include links to supporting material, such as analytical studies, articles, reports, websites, press releases or position papers. If your organisation does not produce any publications, please make reference to other published materials, such as joint statements issued with other organisations. Some sources of information may be in a language other than English. In this case, please cite the original language and, if possible, provide one to two sentences describing the key messages in English.

The content of the EASO Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EASO's work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

Nina Gregori -*EASO Executive Director*

*Please complete the online survey and submit your contribution to the 2021 EASO Asylum Report by **Thursday, 25 February 2021**.*

Instructions

Before completing the survey, please review the list of topics and types of information that should be included in your submission.

For each response, only include the following type of information:

- ✓ New developments and improvements in 2020 and new or remaining challenges; and
- ✓ Changes in policies or practices, transposition of legislation or institutional changes during 2020.

Please ensure that your responses remain within the scope of each section. Do not include information that goes beyond the thematic focus of each section or is not related to recent developments

Contributions by topic

1. Access to territory and access to asylum procedures (including first arrival to territory and registration, arrival at the border, application of the non-refoulement principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)

During 2020, the detention centre in Bělá-Jezová was transformed in a facility with three purposes. Besides continuing to be a detention centre for women, families and vulnerable groups, it also became the official **quarantine facility** (including isolation for proven Covid cases) for foreigners. The quarantine was applicable to both, asylum-seekers as well as foreigners who were identified as staying in the country irregularly. **Asylum seekers had to file their asylum application in Bělá-Jezová and following the quarantine**, which took between **several days to two weeks**, they were transferred to the Zastávka reception centre. Foreigners staying irregularly in the country were transferred to one of the three detention centres following the quarantine.

Hence, the “**default**” **reception centre** for new coming asylum-seekers has changed effectively from the Zastávka Reception Centre to the Bělá-Jezová Reception, Accommodation and Detention centre. This is problematic since the Bělá-Jezová centre is hardly accessible. It is located in the middle of the woods, 5 km from the nearest village with very difficult access by public transport. The best way to reach the reception centre is by car or taxi, which, however, many asylum-seekers cannot afford. The second best option is to walk from the nearest village which is problematic, especially in winter, as the route is intended for cars only and does not even include a pedestrian pathway.

The quarantine part of the detention was facing a number of **security risks**, some of which resulted in actual security incidents during summer 2020. Most of the risks emanated, to our understanding, from the lack of opportunities to leave the quarantine, lack of possibilities to communicate with the outside world and lack of information. The quarantine facility is closed, with no possibility to leave the facility, or even one’s own floor, during the quarantine. There is a phone booth at every floor and the newly incoming person obtains a limited amount of phone credit which they can use to make calls either within the detention facility or the outside world. However, it appears that the phone booths were not always working properly. Meanwhile, individuals who are in the quarantine under the detention

regime did not have access to their cell-phones. While asylum seekers were allowed to keep their cell phones, the internet connection inside of the facility is very weak which has proven a challenge in enabling them to effectively communicate with the outside world. The social workers accompanied by the medical personnel would go in the quarantine three times per day to distribute meals. This would be often the only moment when a person in quarantine would have contact with the outside world and could voice any problems in the facility. In the detention part of the quarantine, the social workers are additionally accompanied by police personnel which may create further barrier for the foreigners to ask questions. According to the detention management, there is one emergency button at every floor, however, most individuals might not be aware of its existence. Furthermore, at least until summer or early autumn, the bathrooms and toilets were lacking the possibility to lock oneself up, creating further security risks. Additionally, in some cases it appeared that the facility was lacking capacities to separate people according to their gender in addition to separating them according to the time of arrival and the regime of quarantine (asylum seekers/detainees). We received at least one phone call by a woman asylum seeker with children who claimed to be accommodated next to a group of men and expressed concerns of safety. Following the security incident in summer 2020 (s. below) and the **visit of the Ombudsperson** office, the management promised to address some of the issues. The emergency button should now be more visibly marked with a poster. Locks have been added to bathroom and toilet doors. The facility also promised to provide more phones on each floor which would allow the persons under quarantine to contact the social workers directly whenever they need it. Phone numbers to contact organizations supporting foreigners and asylum seekers should be also available on the floor.

Sexual abuse in quarantine

In June 2020, OPU represented two foreigners from Vietnam who were brutally sexually abused by other person in the quarantine part of the Bělá-Jezová detention centre. The ill-treatment took place in the evening and was about to continue in the morning and included, besides sexual assault, also various forms of degrading treatment, essentially trying to enslave the two foreigners to fulfil meaningless tasks for the perpetrator. Besides abusing the persons themselves, the perpetrator “offered” the two foreigners also to the other detainees. In order to escape the violence, the two foreigners could not find any other solution but to jump out of the window, which resulted in serious injuries including a spine injury. The criminal prosecution was subsequently initiated against the perpetrator. To our knowledge, no responsibility was inferred by the management of the Refugee Facilities Administration (SUZ). Moreover, following hospitalization, the victims of ill-treatment were brought back to the Bělá-Jezová detention centre, and later to the Bálková detention centre. They were only released following an intervention of OPU and the Ombudsperson.

The incident is illustrative of the dangerous institutional environment of the quarantine facilities, which **do not offer sufficient safeguards against ill-treatment**. Following the sexual abuse incident, the Ombudsperson organized an unannounced visit to the quarantine facility. To our knowledge, a report has been produced with concrete proposals for improvement and accompanied by a request to make them effective as of immediately. While we do recognize that some further steps have been taken in order to improve the situation, we are unable to tell to what extent the present situation offers effective safeguards against ill-treatment. It appears that there are no effective reporting procedures for victims of ill-treatment, the management and staff of the facilities appear to have been provided with no training or guidelines on protection against ill-treatment.

While the airport reception center at the Václav Havel Airport Prague closed in early 2020 due to the Covid-19 pandemics, the Foreign Police continued to impose denials to access the territory at the

airport transit zone, in a procedure that continued to be untransparent and not supervised by any external or internal mechanism.

2. Access to information and legal assistance (including counselling and representation)

Due to the epidemic measures, access to **legal counselling** in reception, accommodation and detention centres **was restricted**. In the beginning of the pandemic between March to April 2020, OPU lawyers were **not allowed to visit** neither the quarantine in Bělá-Jezová nor any of the detention centres. The consultations took place **over phone** and OPU lawyers were in touch with the social workers in the detention centres on a 2 to 3-day basis in order to discuss the detainees' legal needs. However, they did **not have access to the quarantine** during this time.

During summer 2020, OPU lawyers had the possibility to visit the quarantine about **once every two weeks**. Towards the end of the year, the frequency of visits has been increased to **once per week** as means of further addressing the security risks by providing the quarantined individuals an additional point of contact with the outside world. However, most of the time, the quarantine visit had to take place during the same time as the distribution of meals, it did not take place in private, OPU lawyers were not allowed to bring in any items or take any of them out. Essentially, the counselling consists of briefly informing people where they are, what the next steps in their proceedings (asylum or detention) will be and providing them with OPU's contact details. The lawyers are not allowed to bring in any phone and during the short timespan during which the counselling has to take place in between the handing-out of meals, it is **not possible to organize interpretation** in various languages. In case a person does not speak Czech, Russian or English, they are merely shown the phone number of OPU which they can note down. OPU lawyers do not visit individuals in the isolation part of the quarantine which is reserved only persons who have tested positive on Covid, these individuals are primarily visited by health care workers. However, in case someone expresses wish to speak to a lawyer, OPU lawyers can arrange a call to the respective floor and provide consultation over phone also to persons in isolation.

When the quarantine was being established, OPU was promised by the authorities that no **deadlines** would be applicable in the respective asylum or detention proceedings during the quarantine (i.e. the 7 days deadline to apply for asylum after being detained) precisely due to the lack of access to legal counselling. However, we noted at least one case where a **belated asylum application was dismissed** by the Ministry of Interior and one case where a belated appeal against deportation has been dismissed by the police, despite the fact that the delays were due to the quarantine.

As of February 2021, all OPU lawyers and social workers who want to visit any of the facilities are required to bring a negative Covid-19 test which is not older than 48 hours. Due to the limited testing capacities in the Czech Republic, obtaining a test before every visit presents an additional challenge. It is worth noting that while the facilities have encountered several cases of Covid-outbreaks, however, none of this has been caused by OPU workers. On the contrary, the staff of the facilities, while also having contact with the outside world, are not required to get tested before entering the facility.

3. Provision of interpretation services (e.g. introduction of innovative methods for interpretation, increase/decrease in the number of languages available, change in qualifications required for interpreters)

The quality of interpretation in the asylum proceedings continued to be low. The interpreters translating the interviews continued to not have the obligation to undergo special training to work with asylum seekers and vulnerable persons. This problem closely correlates with the insufficient communication and information provision by the authorities in the asylum procedure in general. This became especially visible during 2020, a year characterized by frequently changing information due to the Covid pandemics: the Division on asylum procedure was the one division of the Department of Asylum and Migration Policy which was mostly late with communicating with the asylum seekers, including late and unclear updates of their information on their website. This division's website information was never provided in other than Czech and English languages throughout 2020.

4. Dublin procedures (including the organisational framework, practical developments, suspension of transfers to selected countries, detention in the framework of Dublin procedures)

Dublin transfers were affected by Covid but information was **incomprehensive**. It was not always clear whether Dublin transfers were going on or not. This also affected persons in detention who did not know whether their detention pursues its legal objective and whether there is any reasonable prospect of their transfer.

Detention of asylum-seekers awaiting Dublin transfer is still more or less automatic if these are found irregularly on the Czech territory. Alternatives to detention are rarely found effective, and are indeed unavailable for this category of asylum-seekers (see below under point 8).

In January 2021, OPU requested from Ministry of Interior statistics of realized Dublin transfers between March 2020 a January 2021. It follows from these statistics, that between March and December 2020, 92 agreed Dublin transfers had to be cancelled due to the restrictions resulting from the Covid-19 pandemic. In contrast, only 22 transfer took place for this entire period. There were months during the peak of the pandemic when no transfers took place at all (April, May, June, October November). **No transfer at all took place to Bulgaria and Romania, although these two member states are the primary take-back request countries** for the Czech authorities. Yet even when it became obvious that Dublin transfers to some countries have very low or practically no chance of being conducted due to lack of flights in the pandemics, **persons kept being detained for the theoretical purpose of conducting said transfer** which then never happened.

5. Special procedures (including border procedures, procedures in transit zones, accelerated procedures, admissibility procedures, prioritised procedures or any special procedure for selected caseloads)

A major amendment to the Asylum Act was prepared by the Ministry of Interior over the course of 2019 and 2020. It contains significant cuts of procedural guarantees in the border procedure. This includes a suggestion to prohibit appeals to the Supreme Administrative court in cases of applications filed at the Prague International Airport. This is particularly problematic as that is our only external border, often applications filed there are well-founded and the quality of the first instance decisions is very low.

Further, the amendment introduces a special procedure in "special situations" which are very vaguely defined as "larger arrival" of migrants, and will justify a fast-track procedure in a vaguely defined scope of cases without adequate procedural guarantees.

6. Reception of applicants for international protection (including information on

reception capacities – increase/decrease/stable, material reception conditions - housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)

Asylum-seekers receive insufficient support and often end up living in poverty. The situation is exacerbated by the fact that the **asylum proceedings last unreasonably long** - often years.¹ During the asylum proceedings, asylum-seekers live in uncertainty about their future and cannot assess most of the services facilitating their integration. This often results in the loss of hope, inability to integrate in the host society and the loss of ties with the home country (which makes it impossible to return in case of negative decision in the asylum proceedings).

Asylum-seekers who cannot afford their own accommodation have a right to live in one of the state-funded accommodation centres. All of these centres **are residential institutions with collective housing** where it is extremely hard to lead a normal family life, in particular on a long-term basis. Families are accommodated in rooms, sometimes with their own sanitary facilities but many times with sanitary facilities common for the entire corridor. Not all the centres offer possibilities for cooking and in some centres, meals are provided centrally which strengthens the institutional character of these centres. The centres are guarded by a private security company and have special rules (e.g. for washing clothes, language classes, legal aid) that secure co-habitation of asylum-seekers from different cultures. The centres are not designated for the families with children only, which results in children being witnesses of undesirable behaviour such as fights, alcohol and drug abuse, police controls.

Many asylum-seeking families with children also face serious problems in the **access to medical care** for their children despite having full health insurance and being in theory entitled to the same medical care as nationals. There are no medical services in the accommodation centres and the asylum-seekers must seek medical attention in the nearest hospitals, practitioners or specialists. Not all doctors in the vicinity of the accommodation centres are willing to accept patients from among asylum-seekers (often due language barriers, cultural or other prejudices, or simply insufficient capacity). Families whose children are often sick thus spend their scarce financial resources on travel expenses to reach medical care for their children.

Asylum-seekers with disabilities are in an extremely challenging situation. The accommodation centres, with the exception of the one in Zastávka, are not designed to accommodate persons with disabilities. Even the centre in Zastávka where most persons with disabilities are accommodated, faces serious challenges to provide medical and other care for this target group. They face unwillingness of doctors to find medical professionals to accept asylum-seekers with disabilities as patients. They also struggle to find professional nurses who would be willing to provide even basic care services within the centre.

In 2020 we came across a systemic problem with the **access to housing of asylum seekers in the final stage of their asylum process**. Housing for asylum seekers is generally guaranteed in accommodation centres during the first and second instance of the asylum proceedings. At the final stage of the asylum proceedings, i.e. before the Supreme Administrative Court, asylum seekers have no longer a right to housing in the accommodation camps, regardless of whether or not they have the possibility to ensure their own housing. This is very problematic especially for vulnerable asylum seekers (families with

¹ Section 27(1-3), Act No. 325/1999 Coll., on Asylum provides for 6 months' time limit to issue a decision in asylum proceedings. This time-limit may be prolonged by additional 9 months in complicated cases. There are no official statistics on delays in asylum proceedings, which are, however, notoriously known.

small children, single mothers, persons with disabilities) who have limited possibility to earn a living and therefore very limited possibility to find and fund their own housing.

The law allows the authorities to allow in exceptional cases to provide housing in the accommodation camps. In the past, this exception was used more or less automatically for all asylum seekers in the final stage of their asylum claims mainly due to free capacities of accommodation camps. However, in 2020 the situation has changed and almost no asylum seeker is provided accommodation during the final instance of the proceedings. Even in the most urgent cases (families or single parents with kids), the housing is provided only for a couple of days after the decision in the second instance and then they have to leave accommodation camps and find a place to live elsewhere. This may be very problematic, especially in cases where the asylum proceedings were dragging for years or when the persons concerned are given very short notice to find their own housing.

Access to housing is also problematic with regards to refugees that have been granted international protection. This category of people is temporarily allowed to stay in one of the integration facilities for the maximum period of 18 months. During this period international protection holder should find a private accommodation. Property owners, however, are often not willing to rent their properties to refugees and there is a huge discrimination on the housing market. This situation was only exacerbated by the Covid pandemic. Many refugees lost jobs and consequentially also housing due to Covid.

Furthermore, in 2020 several dozens of asylum seekers were removed from the Kostelec accommodation centre and placed in accommodation centres in other parts of the country as a result of reconstructions going on in the facility. They were informed about the change on a short notice. Often, this change resulted in the asylum seekers losing access to employment which they have finally secured after months of being jobless. We have noted one case of a vulnerable LGBTQI asylum seeker who was previously transferred from another accommodation centre to Kostelec due to concerns of safety. This person was subsequently brought back to this very first accommodation centre where his father, a Schengen visa holder, was previously threatening to find and kill him.

In addition, asylum seekers, refugees and migrants face numerous obstacles in the enjoyment of their social and economic rights and are often **discriminated** in their access to education, health care, housing and access to services. The remedies against discrimination are hardly accessible (due to language barrier and costs of litigation) and if pursued, they often prove ineffective (due to length of the proceeding and/or procedural obstacles such as burden of proof, limitation periods, etc.). Public resentment often prevents victims of discrimination to pursue their claims.

7. Detention of applicants for international protection (including detention capacity – increase /decrease/stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)

Unfortunately, immigration detention is still a **routine tool of migration control** in the Czech Republic and in most cases, it is not used as a measure of last resort. Immigration authorities detain irregular migrants as well as asylum-seekers, including vulnerable groups such as families with children and unaccompanied children, as well as potential victims of ill-treatment such as victims of trafficking. There are currently **three immigration detention centres** (Bělá-Jezová, Bálková, Vyšní Lhoty) and in the facility in the **transit zone** of the Prague international airport. The detention capacity has not changed in 2020. All facilities are located in **remote areas**, and have **prison-like** security regime (fences, uniform police controls, CCTV monitoring, personal searches, visiting hours, specific daily

regime, withdrawal of personal items, limited communication). Detained migrants are still obliged to pay for their detention equivalent of ca. 9.5 EUR per day per person.²

In 2020, during the Covid pandemics, some of detention centres became **prone to infection** due to limited private space, shared rooms and sanitary facilities. Bálková and Vyšní Lhoty witnessed repeated Covid spreads among the detainees which in several cases resulted in the prolongation of their detention beyond the permissible limits set by law. Besides, the migration authorities were slow in considering border closures as a reason for release and many foreign nationals, including asylum-seekers, spent prolonged time in detention facilities despite no prospect of their transfer.

The problematic detention practices persist, in particular with regard to **asylum-seekers awaiting transfers under the Dublin regulation**. If a person is found irregularly on the Czech territory and the police found that she has claimed asylum in another EU MS, she is **automatically** detained for the purposes of the Dublin transfer. The assessment of the serious risk of ill-treatment as per Article 28 of the Dublin Regulation is superficial and there are no available alternatives to detention for this group of asylum-seekers. In fact, these asylum-seekers are **not considered as asylum-seekers** under the Czech legislation and are precluded from claiming asylum while in detention.³ In practice, they are detained for months awaiting their Dublin transfer. The Czech authorities refuse to house this group of asylum-seekers in the reception and accommodation centres for asylum-seekers. Since they are not considered asylum-seekers, detention affects also **vulnerable groups**, including families with children, unaccompanied minors, pregnant women (some of them gave birth while in detention in the past), victims of torture, human trafficking, persons with disabilities or suffering from serious psychological problems. Prolonged detention is particularly problematic for vulnerable persons.

Alternatives to detention for asylum-seekers envisage in the legislation **are not used in practice**. If a person requests asylum in the detention centre (provided that she is not a Dublin case who cannot claim asylum) and she is not found vulnerable, then she is automatically detained for 120 days. We have not encountered a case where an alternative to detention would be effectively ordered in these cases.

While the airport detention continued to be applied mostly automatically early 2020, the center was closed with the state of emergency imposed due to the Covid pandemic. The applicants who applied for asylum at the airport transit zone were transferred directly to what used to be a part of the Bělá Jezová detention center: a quarantine center in Bělá Jezová. While the center is labelled as a quarantine reception, the conditions are those of a detention center.

In all categories of detained persons, **identification of vulnerable persons** is extremely problematic, as there is no effective mechanism in place for this purpose and the staff of the detention centres and the respective authorities deciding on detention is not trained in identification of vulnerable persons (see below under point 11).

8. Procedures at first instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, determination of international protection status, decision-making, timeframes, case management - including backlog management)

² Section 146, Act No. 326/1999 Coll., Act on the Residence of Foreign Nationals; Ordinance No. 447/2005 Coll., which determines the amount of costs for accommodation, meals and transport within the territory of the Czech Republic of a foreigner detained for the purpose of administrative deportation.

³ Section 129 Act No. 326/1999 Coll., Act on the Residence of Foreign Nationals; Section 3a (1)(a)(4) Act No. 325/1999 Coll., on Asylum.

The quality of the asylum proceedings continued to be low and the delays in the procedure continued to be unbearable for many. One of the most visible examples is the procedure with Chinese Christians, whose cases have been ongoing for 4-5 years as of the end of 2020. Their cases were initially rejected in the first instance after significant delays and inactivity of the ministry. Even though the ministry spent several years with the decisions, the actual text of the decisions was simply a copy of one identical reasoning. Their cases were in 2019 and 2020 successful at court with a 100% success rate. Considering the ministry's first instance decisions were just a copy of one identical text, the judicial judgement mostly contained a very similar analysis of the Ministry's (identical) mistakes. Since then, after another year and half, the ministry continued to further extend the deadline to decide their cases, providing all of the Chinese Christians with one brief reasoning of the delays: "The ministry is reading the judicial judgement". Many of the Chinese Christians continued suffering from psychological problems due to the protracted uncertainty and fear of being deported.

While the ministry manifests enormous delays in proceedings, its international protection division was very strict in demanding all asylum seekers' and subsidiary protection holders' deadlines are met even amidst the Covid-19 pandemics. Many asylum seekers as well as subsidiary protection holders lost their jobs and consequentially also housing due to Covid-19. Many had to care of children whose schools were closed. This often made it difficult for them to extend documents, or picking up letters from the post office in time. Two women who were subsidiary protection holders for 10 years and who were SGBV victims in their respective countries failed to extend their subsidiary protection in time due to the impacts of Covid-19 and as a consequence lost their status.

9. Procedures at second instance (including organisation of the process, hearings, written procedures, timeframes, case management - including backlog management)

The judicial review procedure was of a variable quality. While some regional courts and judges dedicated enough attention to the asylum cases and clearly developed expertise in the field, some courts and some judges in particular were unprepared at the hearings and did not familiarize themselves with the basic principles of asylum law. This included a regional branch in Pardubice which produced some of the very few negative decisions in the Chinese Christians cases which then were 100 % overturned by the Supreme Administrative Court in 2019 and 2020. In 2020, one of the judges in Pardubice was also in charge of cases of five unaccompanied minor's cases from Afghanistan, in whose cases he called the media and provided the unaccompanied minor's details to the media; his negative decisions were all overturned by the Supreme Administrative Court.

10. Availability and use of country of origin information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)

The quality of using the COI information remained poor in 2020. While the Ministry sometimes enlists numerous resources, in reality only one or two resources are mentioned in the actual reasoning of the judgement. Often, the COI information relied upon is generic and does not relate to the specificities of the case (i.e. in the case of a victim of serious domestic abuse, only general information about the security situation in the country is considered). When presented with the COI information at the first stage of the asylum proceedings before a decision is informed, the asylum seekers are poorly informed about the importance of this step and their right to suggest further documents in their support. The Ministry also provides enormously short deadlines for providing a reply on the COI collected (regularly 10 days) which makes it in practice impossible to provide quality information.

In one case of a 2020 procedure (decision adopted early 2021), the ministry only used two very short minimalistic reports: one a note written by the ministry of interior itself, another one a note by the ministry of foreign affairs. The asylum seeker from Egypt complained about the lack of diversity of COI in his case and suggested several other COI materials to be used. To this, the ministry of interior replied that the diversity of resources condition was kept in line with the EASO methodology even though only two resources were used which were both governmental, because “the ministry of interior report is based on several other resources”.

11. Vulnerable applicants (including definitions, special reception facilities, identification mechanisms/referrals, procedural standards, provision of information, age assessment, legal guardianship and foster care for unaccompanied and separated children)

There is **no vulnerability screening tool** or methodological guidance for the identification of vulnerable asylum-seekers and migrants arriving to the Czech Republic. As a consequence, vulnerable asylum-seekers and migrants are routinely detained in the closed immigration centres or in the transit zone of the Prague international airport, sometimes for prolonged periods. Often, the **authorities fail to identify or recognize the vulnerability** of a particular person, despite the calls of representatives or NGOs. In some cases, even the medical personnel alerted the detention centre to the vulnerability of a particular person and had called for release or transfer to another facility, but the immigration authorities refused to do so.

Whereas the Asylum Act recognizes certain categories of vulnerable persons (children, pregnant women, persons with disabilities, victims of torture, human trafficking etc.) and limits the possibility of their detention,⁴ the Act on the Residence of Foreign Nationals does not contain the term “vulnerable person”. This is very problematic because the authorities have then no legal obligation to consider vulnerability as one of the factors when deciding upon detention. Moreover, even in the cases under the Asylum Act, the vulnerability is rarely identified according to the law, and the detention of vulnerable persons is applied automatically, families with children being a notable exception. The Supreme Administrative Court and the Prague Municipal Court have repeatedly pointed out the **lack of adequate vulnerability identification** of asylum-seekers detained in the airport reception centre,⁵ but the Ministry of Interior has never changed its practice and has not developed a mechanism to screen vulnerability.

Detention may be particularly harmful to vulnerable persons, be it due to material conditions, increased stress, insufficient health care, or any other factors connected with deprivation of liberty. Furthermore, detention often leads to deterioration of their psychological and physical state.

No examination of detention grounds in case of a suicidal woman from Belarus

In 2019, an asylum-seeker from Belarus was detained in the Prague airport transit zone. In her country of origin, she had been beaten up, had a serious injury and suffered from depression. During the detention, her psychological condition had deteriorated to the extent she started being suicidal. A psychologist working in the centre confirmed she was in a serious condition and that she needed psychiatric care. Despite this she was not released and had to appeal to the courts at two instances, where she eventually won.⁶

⁴ Section 2(i), 46a(3), Act No. 325/1999 Coll., Asylum Act.

⁵ See, for example, Supreme Administrative Court, file no. [5 Azs 312/2016 – 34](#), decision of 9 March 2017, file no. 9 Azs 19/2016, decision of 2 June 2019 and file no. [9 Azs 193/2019](#), decision of 4 September 2019.

⁶ Supreme Administrative Court, file no. [9 Azs 193/2019](#), decision of 4 September 2019.

Victim of human trafficking with serious eating disorder detained for prolonged period

In 2019, a woman from Japan was detained in the Bělá-Jezová detention centre for more than 150 days for the purposes of expulsion. During her detention, new information emerged suggesting she may be a victim of trafficking, but the authorities never took any steps to establish her status by trained experts despite numerous requests. She suffered from a number of physical and mental health issues, including a serious eating disorder, which was rapidly deteriorating during her detention. She began to lose weight rapidly to the point of severe malnutrition potentially endangering her life. The connection between her health status and her detention has been clearly pointed out by several medical reports. This information has not been taken into consideration by the police when deciding on whether or not to prolong her detention. Instead, the visits to the doctors were viewed as purpose-built with the aim of achieving release. The woman was ultimately deported to her country of origin.

Czech authorities continue to detain migrant children in closed immigration detention centres. The legislation allows to detain a minor older than 15 years for immigration purposes, **both accompanied and unaccompanied children** may be detained.⁷ Their detention may last up to 90 days.⁸ Often unaccompanied minors' claims about their age are being disputed by the police and they are placed in the detention centre until their age is determined.⁹ Children accompanied by their family members, who are under 15 years old, are formally not detained but they are "accommodated" in the detention centre together with their parents.¹⁰ In practice, however, all the restrictions connected with the detention apply to these children. There are still no official statistics about the number of detained children that would be publicly available.

The detention usually takes place in the closed immigration detention centre in Bělá-Jezová which has been recently designated to accommodate single women and families with children. However, in our opinion, the detention centre is not appropriate to detain children and other vulnerable groups. The centre located in a woodland remote area around 5 km from the nearest village. The centre is surrounded by a high wire fence with razor fence on the top. The centre is **guarded 24/7 by the immigration police** wearing uniforms. The inner security is outsourced to the private security guards who also wear uniforms. The centre has **prison-like regime**. Upon the admission to the centre, the detainees undergo security check.¹¹ Common rooms in the residential areas are CCTV monitored.¹² Pre-Covid, children were supposed to be schooled within the centre and had therefore no practical possibility to leave the centre.¹³ The international experts emphasize that the immigration detention inherently **harms the children** and it has the negative impact on their physical and mental health and on their development, even when they are detained for a short period of time or with their

⁷ Section 124(1)(6), 124b(1), 129(1)(5), Act No. 326/1999 Coll., Act on the Residence of Foreign Nationals in the Czech Republic.

⁸ Section 125(1), Act No. 326/1999 Coll., Act on the Residence of Foreign Nationals in the Czech Republic.

⁹ Section 124(6), 129(5), Act No. 326/1999 Coll., Act on the Residence of Foreign Nationals in the Czech Republic.

¹⁰ Section 140(1), Act No. 326/1999 Coll., Act on the Residence of Foreign Nationals in the Czech Republic.

¹¹ Section 1371(1), Act No. 326/1999 Coll., Act on the Residence of Foreign Nationals in the Czech Republic.

¹² Section 132a, Act No. 326/1999 Coll., Act on the Residence of Foreign Nationals in the Czech Republic.

¹³ The material conditions in the centre are described in the 2016 Report of the Public Defender of Rights published after the monitoring visit to the centre. However, the authorities put some effort in humanizing the detention centre since this report. The report is available online in English:

https://www.ochrance.cz/fileadmin/user_upload/ochrana_osob/ZARIZENI/Zarizeni_pro_cizince/Visits_of_the_Facility_for_Detention_of_Foreigners_Bela-Jezova_December_2016_.pdf.

Evaluation report of the visit is available here: <https://www.ochrance.cz/en/protection-of-persons-restricted-in-their-freedom/detention-of-foreigners/>.

families.¹⁴The alternatives to detention exist only on paper and are rarely implemented.¹⁵ Most of the time, these **alternatives are inaccessible** for migrant families with children since they just arrived and usually have no ties to Czechia, they do not have a place to stay in Czechia nor have they money to cover the financial guarantee. There are no services available to families with children that would enable them to access the alternatives to detention, in particular the non-custodial accommodation.

In the last two years, we registered at least a dozen of cases when **unaccompanied undocumented minors** whose age was contested, were **detained in detention facilities for adults**, often for prolonged periods. The practice of immigration authorities is to estimate the age of these children by contested X-ray bone tests, which are highly inaccurate.¹⁶ Based on the result of these tests, during which these children are not represented and are not appointed a guardian, they are either housed in a specialized care home for unaccompanied migrant children or put in a detention centre, including sometimes a detention centre for adults. This practice is harmful, and it often takes months of litigation until these children are released. In detention centres for adults, they are often traumatized and prone to abuse and ill-treatment. In this context, it is worrying that the Ministry of Interior **refrained from the pilot project** of estimating age through psychological assessment and returned to using bone test method. We have also noted a problematic practice on the part of child protection authorities (OSPOD) refused to initiate guardianship proceedings even when requested to do so by the police on the basis of inconclusive bone scans.

Detained unaccompanied minor showing signs of serious distress

In summer 2020, OPU assisted an unaccompanied minor from Iraq who was detained in the Bělá-Jezová detention centre for the purpose of his Dublin transfer to Romania. In the detention decision, the police disputed his age, however, no further steps toward his age assessment were taken for almost 3 months of his detention. Despite the fact that the boy was provided with psychological counselling on a weekly basis, he kept demonstrating signs of serious distress throughout his detention and spoke about suicidal thoughts. At one occasion, he ate a bathroom soap and had to be hospitalized. At other occasions he would break furniture or display anger for which he later apologized. A trained psychologist, who was requested by OPU to conduct age assessment, established his age at 17 years. She also identified various traumatic experiences the boy has been a victim of in the past. The boy is currently awaiting the decision of domestic courts in respect of his Dublin transfer, the child protection authorities refuse to consider him a minor.

Family from Iraq not aware of their child's whereabouts while detained

In summer 2020, OPU represented a family from Iraq with six children aged 2 to 17, including one severely sick child with a pre-existing heart condition. The health status of the child has worsened during the detention to the point the child had to be hospitalized. The parents were not allowed to accompany the child to the hospital. While they did sign an agreement with the child's hospitalization, due to problems with interpretation, they did not understand where their child has been brought. They could only restore contact with the child via phone with the help of OPU who called in nearby hospitals. The fact of being detained, the lack of knowledge about the child's whereabouts including the inability to accompany the child to the hospital, has caused the family great mental suffering. The family was later released by the police on the basis of OPU's request for

¹⁴ CPRMW and CRC Joint General Comment, op. cit. 4, § 9.

¹⁵ Section 123b of the Act on Foreign National: i) residents on an address in the Czech republic, ii) financial guarantee, iii) reporting obligation.

¹⁶ See, among many authorities, CRC Committee, Communication no. 11/2017, 18. 2. 2019, § 12.4: "States should refrain from using medical methods based on, inter alia, bone and dental exam analysis, which may be inaccurate, with wide margins of error, and can also be traumatic and lead to unnecessary legal processes."

release stressing the worsening health condition. The unlawfulness of their detention has been later confirmed by domestic court.¹⁷

Four unaccompanied minors detained in detention centre for adults

In summer 2019, four unaccompanied Afghan boys, who claimed to be aged between 15 and 17 years, were detained in the Bálková detention centre designated for adult men where they spent almost three months. The police determined their age by the contested bone tests. All their detention cases were eventually overturned by the Plzeň Regional Court. The court stated that the authorities considered them as adults based on incomplete facts and emphasized the obligation of the authorities to be aware of the limitations of an age determination procedure based solely on bone tests.¹⁸ We registered a dozen of similar cases throughout 2019 and 2020.

During our activities we also observed a **lack of targeted support for victims of torture** or ill-treatment seeking asylum in the Czech Republic. These asylum seekers are extremely vulnerable, often suffered extreme ill-treatment in their country of origin, or during their migration route (in particular in Libya). They need immediate medical, psychological and rehabilitation attention. Yet, there is a shortage of such facilities in the Czech Republic, in particular medical practitioners and therapists who would have experience working with victims of torture and victims from different cultural background. The therapeutic and rehabilitation needs of victims of torture are often left unattended and coupled with uncertainty over their asylum status, it tends to worsen their condition.

12. Content of protection (including access to social security, social assistance, healthcare, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve attainment in schooling and/or the education system and/or vocational training)

In 2020, asylum seekers had limited access to housing in the third stage of their procedure (Supreme Administrative Court appeals). Considering the poor quality of the first instance proceedings, access to both appeal proceedings is vital for many.

While in some periods of 2020 the asylum seekers were allowed to exceptionally remain in the accommodation centers also in the third appeal stage, due to the state of emergency imposed in response to Covid, the vast majority of them were not allowed to remain once the emergency state was lifted in the summer of 2020, while the housing market was still distorted by the Covid pandemics and so finding private housing was on the verge of impossible. This impacted not only their housing situation and limited access to the third appeal procedure, but also access to schools for their children.

As of early 2021, with another state of emergency in place, these persons are once again exceptionally allowed to stay in the centers with exceptions being extended for 2 weeks at the maximum. Asylum seekers continued to have limited access to the labor market only after 6 months of their application pending. Many asylum seekers lost jobs in 2020 as a result of the pandemic.

While the access to basic health care was provided, asylum seekers continued reporting difficulties in finding a general practitioner willing to admit them. There was no special psychologic care provided in the accommodation centers.

¹⁷ Brno Regional Court, file no. 32 A 51/2020 - 15, judgment of 19 August 2020.

¹⁸ Plzeň Regional Court Plzeň, file no. 17 A 121/2019-74, judgment of 24 July 2019, and file no. 60 Az 44/2019- 10, judgment of 30 August 2019.

13. Return of former applicants for international protection

The 2019 and 2020 proposal of an amendment to the Asylum Act and Foreigners Act suggests to cancel the until now successful scheme of exceptional regularization of certain unsuccessful asylum seekers, specifically families with small children whose asylum procedure lasted over 4 years and who under certain strict circumstances were able to regularize their stay. Considering how poor the quality of asylum procedures is, and how long the delays are especially in the most vulnerable and well-founded cases, this mechanism provided an important tool to protect children from being returned to their country after experiencing significant delays in the asylum procedure and a years lasting legal uncertainty.

14. Resettlement and humanitarian admission programmes (including EU Joint Resettlement Programme, national resettlement programme (UNHCR), National Humanitarian Admission Programme, private sponsorship programmes/schemes and ad hoc special programmes)

No such programmes active as per our information.

15. Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)

There were continued efforts to address the Czech authorities to accept children from the Greek camps, which remained without any action taken. Additionally, there was a MEDEVAC initiative about relocation and treatment of 60 Belarussian patients. It seems from the statistics that (these) 60 Belarussians have claimed asylum.

16. National jurisprudence on international protection in 2020 (please include a link to the relevant case law and/or submit cases to the [EASO Case Law Database](#))

17. Other important developments in 2020

Upcoming legislative changes

In 2020, the Ministry of Interior has prepared two major legislative amendments in the area of asylum and migration, none of them has yet been adopted.

The first, more substantial, legal amendment concerns the Asylum Act and the Foreigners Act.¹⁹ If adopted, the amendment will significantly worsen the situation of asylum seekers, including victims of torture. The Ministry plans to completely **abolish the subsidiary protection due to a risk of breaching the international obligations** (presently Section 14a § 1d of the Asylum Act). This, if passed, may have implications on victims of torture. While a risk of torture presents a separate subsidiary protection ground (Section 14a § 1b of the Asylum Act), the frequent lack of identification of torture victims, as well as the risks of torture, makes the more generic breach of international obligations a safeguard for those victims who were unidentified.

The Ministry further plans to completely **abolish humanitarian asylum**. This will have a negative impact on the most vulnerable persons, typically individuals in irreversible health conditions that

¹⁹ Governmental draft amendment [no. 1033/0](#) to the Asylum Act and Foreigners Act, 1 October 2020.

preclude them from traveling to their country of origin, while there will be no other dignified solution to help them stay in the Czech Republic.

Furthermore, the Ministry plans to significantly **cut procedural guarantees for asylum seekers**, including the impossibility to file a cassation appeal with the Supreme Administrative Court in certain situations, including when the asylum claim was filed at the Prague International Airport. This is particularly problematic as the airport is the only external EU border, and the asylum claims filed at the airport are often well-founded, and the quality of the first instance court decisions is very low.

The draft amendment also introduces a **new procedure for “special situations”** which are very vaguely defined as a “larger arrival” of migrants. It presupposes a fast-track procedure of refugee status determination in a vaguely defined terms without adequate procedural guarantees.

The amendment also **abolishes the regularization scheme** for certain groups of unsuccessful asylum seekers, specifically families with small children, whose asylum procedure lasted over 4 years. Considering how poor the quality of asylum procedures is, and how long the delays are especially in the most vulnerable and well-founded cases, this mechanism provided an important tool to protect children from being returned to their country after experiencing significant delays in the asylum procedure and long-lasting uncertainty about their future.

The second amendment will worsen the situation of Czech **unmarried family members** who are foreigners, as it worsens the conditions of applying for temporary residence permits.²⁰ It will also cancel their right to remain in the Czech Republic during the appeal procedure. This is problematic considering the exceptionally high ratio of mistakes made in the first instance proceedings and in 2019 and 2020. Out of 1048 decisions on appeals in the EU family members temporary residence procedure, 463 decisions were cancelled or modified in the appeal instance.²¹ This can have negative impact on all binational unmarried couples and on their children.

The second amendment will also introduce a special procedure to apply for the status of a **stateless persons**. While it is generally speaking a positive step to introduce a procedure that up until now was missing the Czech law, the way the procedure was drafted does not give stateless persons access to adequate basic rights (see above part 2 on stateless persons).

We believe that most of the proposed changes are **retrogressive** and they diminish already very limited rights asylum seekers and foreign nationals enjoy in Czechia.

Statelessness

The situation of stateless persons in the Czechia continues to be very **problematic**. Up until 2018, there was no procedure to determine their stateless status and stateless persons were left in legal limbo for many years. As of 2018, there is a procedure allowing stateless persons to apply for determination of their statelessness status, but this procedure is fundamentally flawed, and in the end does not assist stateless persons in accessing basic rights. Stateless persons are often required to show identity or travel documents to access any kind of service or right (housing, health care, post office), but they often **lack documentation** due to their statelessness. Czech authorities do not help them to obtain identity documents and stateless persons are therefore left in legal limbo for most of their lives.²²

²⁰ Governmental draft amendment [no. 1091/0](#) of the Foreigners Act, 19 November 2020.

²¹ Answer of the Commission for deciding in matters of foreigners provided based on the Act no. 106/1999 Coll., on the free access to information, of 21 January 2021, No. MV-4701-2/SO-2021.

²² For more detailed information see UNHCR, [Faces of Statelessness in the Czech Republic](#), December 2020.

There are no reliable official statistics as to the number of stateless persons residing in Czechia. Some data are gathered by the Foreign Police, some by the Ministry of Interior and some by the Czech Statistical Office but there is no unified methodology of how these data are gathered and therefore it is not known how many stateless persons live in the Czech Republic. The absence of reliable and uniform official statistics of stateless persons are very problematic.

As of 2018, the Asylum Act contains a competence of the Ministry of Interior to consider applications for statelessness status.²³ However, the Asylum Act contains no further rules governing this procedure. There is a great uncertainty about what kind of documents stateless persons should submit to prove their statelessness, what rights and obligations they have during the procedure, what (if any) are the time-limits for the authorities to decide on their applications, what is the result of this procedure. None of these or other issues is governed by the law which results on a total arbitrariness of this procedure and stateless persons are left at mercy of the authorities. Therefore, we hold that the **current statelessness determination procedure is fundamentally flawed**, and we call upon the Committee to address this issue in its questions to the State party.

Applicants for statelessness status have **no access to temporary identity documents** that could be used in real life. This deprives them of the possibility to access any kind of social and economic rights, including housing, employment, health care, etc. They often live in irregularity, with no means or hope to improve their situation.

Temporary identity documents for applicant for statelessness status

In 2019, the Supreme Administrative Court ruled that the authorities are obliged to provide the applicants for statelessness status an identity document proving their status of applicants for statelessness status.²⁴ The Ministry of Interior responded with giving the applicants an A4 paper confirmation of lodging the statelessness application, showing their photo, name and other initials. However, it is not clear what rights and obligations are connected with this “document”. Moreover, neither the accommodation centres nor the hospitals or health insurance companies acknowledge this “document” as a valid ID. In fact, this “document” is not even accepted by the police. There were at least two cases where the police questioned the legality of applicants’ stay and attempted to detain them even after they had presented the A4 paper confirmation issued by the Ministry of Interior.

Due to the minimalistic legal regulation of statelessness determination procedure, it is not clear what rights and obligations the applicants for statelessness status have. In the judgment mentioned in the previous case study, the Supreme Administrative Court stated that in the absence of legal regulation, the applicants for statelessness status should enjoy **equivalent rights as asylum-seekers**.²⁵ However, the authorities ignore this judgment and do not provide the applicants for statelessness status with equivalent rights as to the asylum-seekers. Notably, the applicants for statelessness status cannot access health care and housing.

In 2020, the Ministry of Interior drafted a **legislative amendment** introducing a new statelessness determination status procedure to the Foreigners Act.²⁶ While it is undoubtedly a positive step that a procedure will be introduced into the Czech legal system, it unfortunately leaves stateless persons without certain basic rights. First, it moves the procedure from the Asylum Act to the Foreigners Act which is conceptually wrong and does not follow the practice established so far. It means that the

²³ Section 8d, Act No. 325/1999 Coll., Asylum Act.

²⁴ Supreme Administrative Court, file no. 7 Azs 488/2018 – 53, judgment of 9 April 2019.

²⁵ Ibid.

²⁶ Governmental draft amendment [no. 1091/0](#) of the Foreigners Act, 19 November 2020.

applicants for statelessness status will lose basic rights that they currently should have (at least in theory), such as access to housing in the accommodation centres for asylum seekers,²⁷ public health insurance, free interpreting during statelessness determination procedure, etc., as there are based on the Asylum Act rather than the Foreigners Act. Judicial appeal will have no suspensive effect. Last but not least, when obtaining a decision determining the statelessness status, a person is to be granted only a **tolerated stay visa**, the least stable status in the Czech legal order. The proposed procedure is in many ways incompatible with the standards and recommendations established by UNHCR in these types of procedures.²⁸

Hate speech and hate crime

The situation has worsened notably with regard to hate speech and hate crime towards migrants. Migration was often used by politicians as their campaign tool, focusing on its negative aspects. NGOs assisting migrants as well as journalists covering the topic of migration reported facing verbal threats. The environment of operation for migrants assisting organisations is very problematic.

A recent analysis of media covering the issue of migration points out that migration is often used as a negative political campaign tool: during elections, the number of media coverage of migration increases, while after the election the number lowers again. The study also indicates that the news almost always covers stories of migrants living abroad, and ignore migrants living in the Czech Republic. The main topics of migration news is immigration politics and problems and unrests connected to immigration. For example, in the Czech news covering Germany, this is even the prevailing topic. It is the politicians who most often speak about migration in media: voices of experts as well as voices of migrants are significantly weaker.²⁹ Journalists who try to cover the issue of migration in an unbiased way can face hate crimes. In the recent study, some journalists confirmed facing verbal threats, including comments that "they should hang" or that they "commit treason".³⁰ Nongovernmental organizations assisting migrants and its staff routinely face verbal attacks and verbal threats including threats of physical harm. In 2015, the OPU received numerous verbal threats and had to evacuate its headquarters once due to a safety threat in an incident that was announced to police. Eventually, the police discontinued the investigation. In the same time period, the director of OPU initiated a police investigation against an offender threatening him with physical harm including killing, but eventually the police discontinued the inquiry.

Courts dealt with several hate crime cases against refugees. In 2019, the court reopened a hate crime case against a woman who posted on social media that buses with refugees should be burnt; originally, the charges against her were dropped, the case is pending now.³¹

NGOs working with migrants not only face threats from individuals, or on social media, but they are being targeted by the populists moves from the members of the Parliament. In December 2020, a member of an extreme right-wing parliament party urged the Czech Government to suspend all finances to NGOs "which do not help with Covid", in particularly targeting two organisations working with migrants.³²

²⁷ Prague Municipal Court, file no. 5 A 168/2019: "Not admitting applicants for status of a stateless person to an asylum seeker' accommodation center is an unlawful action."

²⁸ See, in particular, [UNHCR Handbook on Protection of Stateless Persons](#), Geneva 2014.

²⁹ Pavel Prospěch, Adéla Jurečková, [Migrace bez migrantů? Mediální obraz migrace a jejích aktérů v České republice](#), Člověk v tísni, 2019.

³⁰ Ibid.

³¹ Lidovky.cz, [Soud musí znovu otevřít případ ženy, která si přála likvidaci migrantů. Zeman uspěl s dovoláním](#), 22 February 2019.

³² Deník N, [Sociální demokraté otočili, rozpočet podpoří. Chtějí ale ubrat peníze neziskovkám, které nepomáhají s covidem](#) – Deník N ([denikn.cz](#)), 2 December 2020.

References and sources

18. Please provide links to references and sources and/or upload the related material in PDF format

19. Feedback or suggestions about the process or format for submissions to the EASO Asylum Report

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