

# CZECHIA PROTECTION BRIEF: STATELESSNESS

November 2024

## Context

Czechia is a party to both the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. However, it maintains reservations to Articles 27 and 28 of the 1954 Convention as it pertains to the issuance of identity and travel documents to stateless persons.

The country's stateless population is linked to migration, predominantly from former Soviet and Yugoslav countries. According to official statistics of the Ministry of the Interior (MoI), there were **610 stateless persons residing** regularly in Czechia as of June 2024. However, the actual number is likely higher as individuals without regular status and applicants for the status of stateless persons are not included in this statistic.

In 2015, the first reference to the **statelessness determination procedure (SDP)** was introduced in national legislation under the Asylum Act, where it mentioned that the MoI decides on applications submitted under the Convention relating to the Status of Stateless Persons without further specifying the procedure.<sup>1</sup> Despite a low level of legal certainty and information on the process, some applications were lodged and Czech courts developed relevant case law underlining that, pending determination of statelessness, applicants **enjoy similar rights and obligations to asylum-seekers**, in line with UNHCR recommendations.<sup>2</sup> **Procedural aspects of the asylum process should also be applied by analogy in the absence of specific legislation.** These court rulings were only partially acknowledged by the authorities to the extent that legal status of applicants was acknowledged but not the other rights. Recognized stateless individuals were granted a "visa for tolerated stay," rather than permits for a longer duration, such as permanent residence conferred to recognized refugees, as recommended by UNHCR.<sup>3</sup>

Two **key amendments** have modified and developed the SDP since 2021. The first was the transfer to the SDP provision from the Asylum Act to the Aliens Act.<sup>4</sup> In July 2023, another amendment to the Aliens Act introduced a more comprehensive legal framework for the procedure and status of applicants as well as

---

<sup>1</sup> Act no. 325/1999 Coll., on Asylum, Section 8 d), as of 2016, available at : [Czech Republic: Act No. 325/1999 Coll. on Asylum \(amended\) | Refworld](#)

<sup>2</sup> UN High Commissioner for Refugees (UNHCR), *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <https://www.refworld.org/policy/legalguidance/unhcr/2014/en/122573>, para 145.

<sup>3</sup> *Ibid.*, para 148.

<sup>4</sup> Act no. 326/1999 Coll. on the Residence of Foreign Nationals in the Territory of the Czech Republic, as amended. Amendment from 2021, available at: <https://www.refworld.org/legal/legislation/natlegbod/1999/en/115507>.

some procedural safeguards.<sup>5</sup> The amendment also grants recognized stateless individuals access to the public health insurance system and provides them with the same rights and access to the labor market as

permanent residents. Despite these improvements, practical challenges persist. Both stateless persons and relevant authorities often lack sufficient information, creating barriers to fully realizing these rights. Moreover, other key protection measures, such as secure residence permits, a facilitated pathway to naturalization and issuance of travel documents, have yet to be incorporated into the national legislative framework, leaving important gaps in the overall protection of stateless persons.

## Key Figures



**2015**

First SDP provision introduced in Czech legislation



**610**

stateless persons residing regularly in Czechia



**57**

statelessness status determinations since 2015

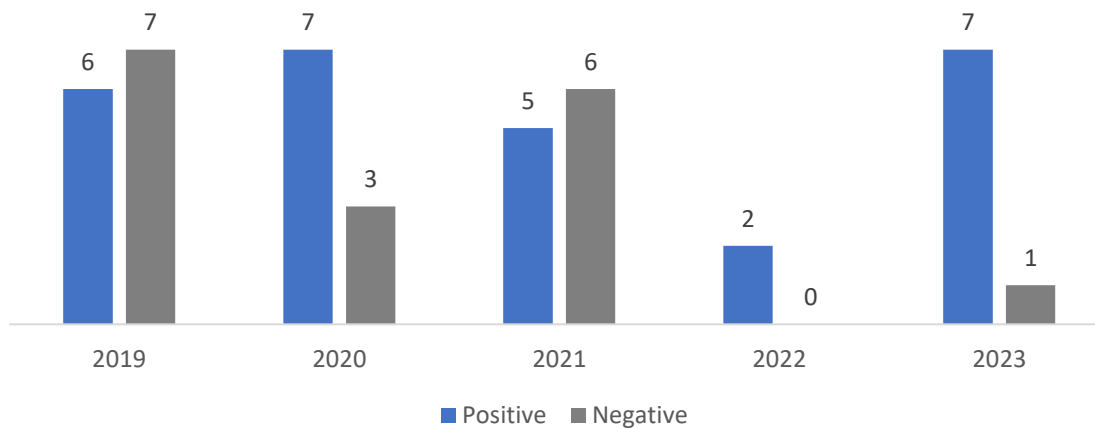
In 2020, UNHCR published a study called *Faces of Statelessness*,<sup>6</sup> which included several **recommendations. These focused on legislative change, such as incorporating** the international legal definition of a stateless person in national law, ensuring access to rights for stateless persons, establishing an SDP in line with UNHCR guidance, providing a facilitated pathway to naturalization and amending the Czech citizenship act to align with the 1961 Convention). Additionally, the study emphasized the importance of training and capacity building for relevant authorities as well as improving statistical reporting on statelessness. Some of these recommendations have since been implemented. The legislation now enshrines a dedicated SDP and a definition of a stateless person in line with the 1954 Convention. However, gaps in addressing specific procedural safeguards still exist, and the scope of protection of stateless persons remains limited.

**Since the SDP's introduction in 2015, 57 decisions on statelessness determination have been issued. Of these, 44 decisions were made between 2019 and 2023, 27 of which were positive and 17 were negative.** These figures underline both progress as well as the need for continued efforts to improve the procedures and stateless persons' access to protection.

<sup>5</sup> Section 49a and 170d et seq. of the Aliens Act, available in Czech at: [326/1999 Sb. Zákon o pobytu cizinců na území ČR \(zakonyprolidi.cz\)](https://www.zakonyprolidi.cz/cs/326/1999/Sb./zakon_o_pobytu_cizincu_na_uzemi_cr).

<sup>6</sup> UNHCR, *Faces of Statelessness in the Czech Republic*, 2020, available at: <https://www.refworld.org/reference/countryrep/unhcr/2020/en/123400>.

## Statelessness Status Determination 2019-2023



## Protection Risks

### Protection Risk I

#### Prevention of statelessness at birth:

Under the current Czech Citizenship Act, a child born stateless in Czechia will automatically acquire Czech citizenship if both parents are stateless, provided that at least one parent has had legal residence for at least 90 days at the time of the child's birth.<sup>7</sup> However, for children whose parents are not both stateless, an additional condition applies:<sup>8</sup> Czech citizenship will not be granted if the child's statelessness results solely from the parent's failure, without valid justification, to take the necessary steps with the authorities of their country of nationality to secure the child's citizenship. These additional conditions can leave some children born stateless without the possibility to acquire citizenship at birth, contrary to the safeguards of the 1961 Convention<sup>9</sup>. Recommendations to prevent statelessness at birth in Czechia were also made by the Committee on Economic, Social and Cultural Rights<sup>10</sup> and by the Committee on the Rights of the Child<sup>11</sup>.

#### Recommendations:

**Consider amending the Citizenship Act to facilitate the acquisition of citizenship for children who would otherwise be stateless, regardless of their parents' legal or residence status or efforts to secure citizenship for their child.**

<sup>7</sup> Section 5 of Citizenship Act, Act no. 186/2013 Coll. on the Citizenship of the Czech Republic, as amended, available at:

[https://mzv.gov.cz/file/2400342/Citizenship\\_Act\\_No\\_186\\_2013\\_Sb\\_o\\_statnim\\_obcanstvi\\_CR.pdf](https://mzv.gov.cz/file/2400342/Citizenship_Act_No_186_2013_Sb_o_statnim_obcanstvi_CR.pdf).

<sup>8</sup> Section 29 (4) of Citizenship Act.

<sup>9</sup> UNHCR, *Guidelines on statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness*, par. 37, available at: <https://www.refworld.org/policy/legalguidance/unhcr/2012/en/105120>.

<sup>10</sup> Committee on Economic, Social and Cultural Rights, *Concluding observations on the third periodic report of Czechia\**, 28 March 2022, available at: <https://documents.un.org/doc/undoc/gen/g22/293/94/pdf/g2229394.pdf>.

<sup>11</sup> Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Czechia\**, 22 October 2021, available at: <https://documents.un.org/doc/undoc/gen/g21/293/72/pdf/g2129372.pdf>.

## Protection Risk II

### Identification of stateless persons and access to statelessness determination:

Despite the establishment of a dedicated SDP, information on access to the procedure and procedural steps are not available on the Mol website, nor has any public information material been produced by the authorities. Additionally, data on the number of applications for statelessness determination is not disclosed.

**Official estimates** of the stateless population in Czechia **are not available**, and neither are methodological guidelines to statistically record stateless persons. Annual immigration statistics provide a partial picture as they only include stateless persons with long-term residence permits or with permanent residence. While the category of stateless persons was included in the 2011 population census, it was missing in the 2021 census.<sup>12</sup> This absence, coupled with the reliance on the ambiguous “unknown” category, hampers the accurate identification of stateless persons. Minimizing the use of the “unknown” category is advisable, as it is inadequate for accurately identifying stateless persons. The lack of reliable and updated data on the stateless population reflects gaps in current identification and coordination mechanisms.

#### Recommendations:

**Disseminate information on the SDP, eligibility criteria and associated rights with recognition of statelessness in a range of languages, including on the official Mol website, to facilitate access to the procedure for stateless persons.**

**Include stateless persons and those without a recognized nationality in official national statistics. To improve statistical data on statelessness, develop methodological guidance on the identification and categorization of stateless persons in line with the International Recommendations on Statelessness Statistics<sup>13</sup>.**

**Raise awareness on statelessness and train police officers to facilitate the identification of stateless persons during initial screening and vulnerability checks in accordance with the EU Pact on Migration and Asylum.**

## Protection Risk III

### Safeguards in statelessness determination and protection of applicants:

The regulation of the SDP in Czechia is currently governed by sections 49a – 49c and 170d et seq. of the Aliens Act. While these provisions provide more detailed guidelines than previous legislation, they remain less comprehensive than those governing asylum procedures. Under the Aliens Act, the Mol has the discretion to decide whether to conduct interviews with applicants. The burden of proof rests mainly on applicants, who must provide documentation demonstrating that they are not citizens of their country of birth or residence and that they have unsuccessfully attempted to acquire citizenship there. No provisions exist for alleviating this burden if applicants cannot obtain the necessary documents. Free interpretation

<sup>12</sup> The relevant outcomes of the public census are available at [Státní občanství | Sčítání 2021](#).

<sup>13</sup> [International Recommendations on Statelessness Statistics \(IROSS\) - EGRIS \(egrisstats.org\)](#), adopted at the 54th session of the United Nations Statistical Commission (Decision 54/121) in 2023. The recommendations aim to facilitate the production of statelessness statistics at the national level and promote greater harmonization of the data regionally and globally.

services are only provided when applicants are summoned by the Mol, and free legal aid is not automatically available as it is for asylum-seekers.

The Mol is required to decide on applications within six months, which may be extended to twelve months in complex cases. In practice, these deadlines are often exceeded without notification to the applicants with some cases pending for over two years. Applicants have the right to appeal determination decisions before administrative courts. However, this procedural safeguard is not free of charge, unlike asylum-seekers, a consequence of regulatory changes that shifted the SDP from the Asylum Act to the Aliens Act.

**The status of applicants** for statelessness determination in Czechia remains unclear and contains several gaps. Although case law has repeatedly called for statelessness applicants to be treated similarly to asylum-seekers, the Mol has not implemented these recommendations, citing recent amendments to the Aliens Act. Under these amendments, applicants are permitted to remain in the country during their first application process and are supposed to receive an "applicant identity document." However, this document is valid for only a short period—about one month—and requires frequent renewals.

According to national legislation, applicants are not entitled to social benefits, public health insurance nor accommodation at collective centers for asylum-seekers. While applicants are permitted to work six months after submitting their application, in practice, the frequent renewal of the "applicant identity document", which many employers are unaware of, makes it challenging to secure decent work and may create financial hardships for applicants.

#### Recommendations:

**Consider reviewing the new Act on Entry and Stay of Foreigners to align procedures and applicants' rights with those of asylum-seekers.**

**Consider reviewing the new Act on Entry and Stay of Foreigners to include a reference to UNHCR's mandate and access to information in the same way as in Act on Asylum on the number of SDP applications.**

**Ensure a fair and efficient SDP with adequate procedural safeguards, in line with UNHCR guidance.<sup>14</sup>**

- Provide free legal counseling and assistance to all applicants in a language they understand.
- Respect deadlines within which statelessness determination should be conducted.
- Consider amending the law to establish a shared burden of proof between the authorities and the applicant, particularly in cases where the applicant is unable to provide any documentation evidencing statelessness.
- Consider amending the law to waive fees of appeal in SDP.

**Provide training to develop the necessary expertise among decision-making officials undertaking SDP.**

<sup>14</sup> UN High Commissioner for Refugees (UNHCR), *Guidelines on Statelessness No. 2: Procedures for Determining whether an Individual is a Stateless Person*, HCR/GS/12/02, 5 April 2012, available at: <https://www.refworld.org/policy/legalguidance/unhcr/2012/en/85625>; UNHCR *Handbook on Protection of Stateless Persons*, 30 June 2014, para 71-77, 89-90.

Consider reincorporating the SDP into the Asylum Act to address remaining procedural and statutory gaps.

Include SDP statistics in monthly statistical reports on international protection in Czechia.

## Protection Risk IV

### Rights of recognized stateless persons and reduction of statelessness:

Recognized stateless persons are initially issued a "**visa for tolerated stay**" for initial validity of 1 year after which a long-term residence permit can be obtained, which is also usually granted for 1 year. After a minimum of five years following statelessness recognition, they can gradually reach permanent residence, which is a necessary precondition for naturalization. In contrast, recognized refugees receive permanent residence immediately, allowing them to pursue naturalization faster. There are several obstacles in accessing a permanent residence permit for recognized stateless persons and no favourable provision to waive certain requirements (such as stable income requirement).

Generally, **Czech citizenship** can be granted after five years of permanent residence and this period may be shortened for stateless persons as well as for refugees. However, for stateless persons, the entire process, from initial recognition as stateless to citizenship, takes at least five years longer than for beneficiaries of international protection, who are granted permanent residence immediately upon recognition.

Czechia has made a reservation with regards to issuing travel documents to stateless persons under Article 28 of the 1954 Convention and only issues travel documents to holders of permanent residence. While recognized stateless persons with a visa for tolerated stay are not subject to visa expiration or cancellation when travelling abroad (as under previous regulations), the "**travel identity document**" issued to newly recognized stateless persons is not an internationally recognized document. This restriction effectively prevents stateless persons from travelling abroad until they acquire permanent residence status, which is required for the issuance of a recognized travel document.

### Recommendations:

Consider reviewing the new Act on Entry and Stay of Foreigners and grant a long-term residence permit or a permanent residence permit to recognized stateless persons, in line with UNHCR guidance.<sup>15</sup>

Alternatively, consider reviewing the conditions for obtaining a permanent residence permit by recognized stateless persons to include the possibility of waiving some requirements, such as income requirements, in order to facilitate access to permanent residence.

Consider withdrawing reservations to Art. 27 and 28 of the 1954 Convention and provide internationally recognized travel documents to those recognized stateless persons who lack a valid travel document.

<sup>15</sup> UNHCR, *Handbook on Protection of Stateless persons*, para 148.