

COUNTRY BRIEFING

August 2024

# Czechia



## INTRODUCTION

The [Statelessness Index](https://index.statelessness.eu/) (<https://index.statelessness.eu/>) is an online comparative tool that assesses European countries' law, policy and practice on the protection of stateless people and the prevention and reduction of statelessness against international norms and good practice. The Index was developed and is maintained by the [European Network on Statelessness \(ENS\)](#),<sup>1</sup> a civil society alliance of over 180 organisations and individuals in 41 countries working to promote the right to a nationality and ensure that stateless people in Europe access their rights.

ENS worked with its members to research and compile comparative information on statelessness in the Czechia.<sup>2</sup> This briefing summarises the findings on how Czech law, policy and practice performs against international norms and good practice on the protection of stateless persons and the prevention and reduction of statelessness. It covers five thematic areas – International and Regional Instruments, Stateless Population Data, Statelessness Determination and Status, Detention, and Prevention and Reduction – and makes a series of recommendations to the Czech Government for reform in priority areas.

To be stateless is not to be considered as a national by any State under the operation of its law. It is a legal anomaly that prevents more than 10 million people around the world - and more than half a million in Europe - from accessing fundamental civil, political, economic, cultural and social rights.

## INTERNATIONAL AND REGIONAL INSTRUMENTS

Different international and regional treaties provide for the protection of stateless people and the prevention and reduction of statelessness. Czechia is a party to most relevant international and regional legal instruments on prevention and reduction of statelessness, including the 1954 Convention Relating to the Status of Stateless Persons (1954 Convention), the 1961 Convention on the Reduction of Statelessness, and the European Convention on Nationality.

However, Czechia retains significant reservations to the 1954 Convention, which impact on the rights of stateless people on the territory, for example, restricting rights to identity papers (Article 27) and travel documents (Article 28) to stateless people holding permanent residence permits. Czechia has not acceded to the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession.

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Czechia should consider withdrawing its reservations to Articles 27 and 28 of the 1954 Convention.

Czechia should consider acceding to the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession.

States should collect reliable quantitative and qualitative data on statelessness and adopt and strengthen measures to count stateless people on their territory.<sup>3</sup> Identification of stateless people is the first step to protecting their rights, but also leads to a better understanding of the challenges that need to be addressed.

Czechia publishes asylum and immigration data, which contains some disaggregated information on stateless migrants and refugees. The latest population census (2021) included the categories 'not identified' (29,137 people) disaggregated by sex, but the category 'stateless' or 'no citizenship' was not included, unlike in the previous population census from 2011 (which recorded 1,502 stateless people). The Ministry of Interior also reports monthly on the number of stateless people holding residence permits. However, there are potentially overlapping categories such as 'stateless, not identified, and other', 'citizenship unknown or unidentified' and 'Palestinians', and the data only counts stateless people lawfully residing in the country, so the figures are likely to be an underestimate of the stateless population. UNHCR published a mapping study of statelessness in Czechia in 2020, which was the first study to qualitatively and quantitatively map statelessness in the country. As of mid-2023, UNHCR estimated there to be 1,577 stateless people in Czechia.

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The Czech Government should take concrete steps to improve and harmonise the recording of statelessness, including of people without lawful residence, to ensure effective policies to prevent and eliminate statelessness. This should include the introduction of a 'stateless' category in all relevant data collection efforts.



## STATELESSNESS DETERMINATION AND STATUS

To be able to provide the protection and rights enshrined in the 1954 Convention, including a residence permit and the right to work, study and facilitated naturalisation, State parties need to be able to identify stateless people on their territory. UNHCR recommends that this is best fulfilled through a dedicated statelessness determination procedure.<sup>4</sup>

Since July 2023, there has been a procedure in Czech law for determining statelessness under the authority of the Ministry of Interior, but this only leads to tolerated stay for a year and the protection afforded is very limited. The law lacks clarity and does not provide applicants with strong procedural safeguards in line with international standards. There is a definition of a stateless person in national law, but the Czech translation does not fully align with the 1954 Convention's original English definition, which can complicate accurate identification. The application has no fixed form and there is no lawful stay requirement. However, while the burden of proof is supposed to be shared in principle, in practice greater cooperation is required from the applicant, who must demonstrate that no State recognises them as a national, which is very difficult in practice. Free legal aid is not provided for in law (unlike in the case of the asylum procedure). Applicants are offered an interview and are provided with free interpretation.

Applicants have the right to remain on the territory during their initial application, are issued an identity document, and can obtain a work permit after six months from submitting their application, but the law does not guarantee access to accommodation in reception centres nor access to health insurance, leaving them vulnerable during often lengthy procedures. Case law applying previous legislation decided that the procedure to determine statelessness and rights conferred to applicants should be analogous to the refugee determination procedure; however, it is not clear whether this will be applied in practice in the context of the new legislation.

Recognised stateless people are only granted a tolerated stay visa, which protects them from expulsion. However, this type of visa offers minimal protection and access to work, healthcare, and family reunification is limited. They may acquire a permanent residence permit after five years.

Czechia extends temporary protection to stateless people who are beneficiaries of international protection or equivalent national protection in Ukraine, their family members, and those with a valid permanent residence permit in Ukraine who cannot return to their country of origin or former habitual residence. Stateless people who had a temporary residence in Ukraine or who cannot prove their links to Ukraine are excluded from temporary protection but may apply for international protection or a 'tolerance visa'.

**The Czech Government should establish a dedicated statelessness determination procedure in law in line with UNHCR Guidance and good practice that guarantees procedural rights and safeguards during the procedure, such as a shared burden of proof in practice, free legal aid, the right to remain on the territory during subsequent applications, and the same rights as asylum applicants).**

**The Czech Government should fulfil its obligations to recognised stateless people under the 1954 Convention, including to grant them a right to residence with a route to permanent residence and other rights, in line with UNHCR guidance.**

**The Czech Government should ensure access to adequate protection for all those fleeing the war in Ukraine.**



## DETENTION

Stateless people face a heightened risk of arbitrary detention particularly where procedural safeguards to identify and determine statelessness and related barriers to removal are lacking.<sup>5</sup>

Czechia is bound by the EU Returns Directive, which requires particular attention to be paid to the situation of vulnerable people; and the EU Returns Handbook requires attention to be paid to the specific situation of stateless people, ensuring that there is a reasonable prospect of removal *prior to detaining* or prolonging a person's detention.

There are gaps in the legal framework to protect stateless people from arbitrary detention in Czechia. A proposed country of removal does not need to be identified prior to detaining someone, but authorities must release detainees where there is no reasonable prospect of removal. Statelessness is not assessed during the decision to detain nor considered relevant in vulnerability assessments and, although there is a requirement to consider alternatives to detention, there is no need to exhaust all alternatives prior to detention. There are some procedural safeguards (time limit, written decisions, free legal aid), but there are no automatic periodic reviews of detention, and no identification documents or residence status are issued to people released from detention. Statelessness is considered in most bilateral return or readmission agreements entered into by Czechia, most of which explicitly permit the readmission of stateless people.

**The Czech Government should take further steps to protect stateless people from arbitrary detention by ensuring clear referral routes to a procedure to determine statelessness for people in detention.**

**Czech law should be amended to introduce the obligation to identify a country of removal in the detention decision and to provide access to basic rights for those released from detention, in order to protect against re-detention.**



## PREVENTION AND REDUCTION

As State party to the 1961 Convention and the European Convention on Nationality, Czechia has obligations to prevent and reduce statelessness on its territory.

Naturalisation is possible after five years' permanent residence and may be facilitated for stateless people at the discretion of the Ministry of Interior. There is an important gap for children born stateless in Czechia, as the child's ability to acquire Czech nationality depends on the actions or status of the parents. For a child born on the territory to acquire Czech nationality, at least one of the parents must have held lawful residence in the country for at least 90 days at the time of the child's birth.

There is a specific provision to protect the right to a nationality of children born to refugees, foundlings, and to prevent statelessness in the adoption process. The law also provides that all births must be registered within three days and birth certificates issued to all children within 30 days. However, there are discriminatory practices in the registration of births of children of same-sex couples or those born through surrogacy. Documentation requirements may be waived in certain circumstances (for refugees and asylum-seekers) and a solemn declaration provided instead. The child's nationality is not recorded on the birth certificate and a procedure is in place for determining nationality later. There are no legal powers for the authorities to deprive someone of Czech nationality, no provisions for automatic loss, and safeguards are in place to prevent statelessness in cases of voluntary renunciation.

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The Czech Government should amend the law to ensure that all children born on the territory who would otherwise be stateless acquire Czech nationality at birth or as soon as possible after birth, regardless of the residence or documentation status, or sexual orientation and gender identity, or actions of their parents.

## SUMMARY OF RECOMMENDATIONS

The Czech Government should:

- Withdraw all reservations to the 1954 Convention Relating to the Status of Stateless Persons and the European Convention on Nationality.
- Accede to the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession.
- Improve and harmonise the recording of statelessness, including of people without lawful residence, to ensure effective policies to prevent and eliminate statelessness. This should include the introduction of a 'stateless' category in all relevant data collection efforts.
- Review the legislation to ensure that a dedicated statelessness determination procedure is established in law that guarantees basic procedural rights and safeguards in line with the 1954 Convention and UNHCR Guidance.
- Provide recognised stateless people with a right to residence with a route to permanent residence and other rights, in line with UNHCR guidance.
- Ensure access to adequate protection for all those fleeing the war in Ukraine.
- Protect stateless people from arbitrary detention by ensuring clear referral routes to a procedure to determine statelessness for people in detention.
- Introduce the obligation to identify a country of removal in the detention decision, to use detention as a last resort after all alternative, less coercive measures have been exhausted, and to provide access to basic rights for those released from detention, in order to protect against re-detention.
- Amend the law to ensure that all children born on the territory who would otherwise be stateless acquire Czech nationality at birth or as soon as possible after birth, regardless of the residence or documentation status, sexual orientation and/or gender identity, or actions of their parents.

## ENDNOTES

<sup>1</sup> <https://www.statelessness.eu>

<sup>2</sup> The Lead Country Researcher for the Statelessness Index in Czechia is ENS Member, Organization for Aid to Refugees (OPU)

<sup>3</sup> Conclusions of the Council of the European Union and the Representatives of the Governments of the Member States on Statelessness, 4 December 2015, <http://www.consilium.europa.eu/en/press/press-releases/2015/12/04/council-adopts-conclusions-on-statelessness/>

<sup>4</sup> UNHCR (2014) Handbook on Protection of Stateless Persons, available at:

<http://www.unhcr.org/uk/protection/statelessness/53b698ab9/handbookprotection-stateless-persons.html>

<sup>5</sup> ENS (2017) Protecting Stateless Persons from Arbitrary Detention: An Agenda for Change, available at:

<https://www.statelessness.eu/updates/publication/protecting-stateless-persons-arbitrary-detention-agenda-change>

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