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International and Regional Instruments

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
IOB	1	a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	UN Convention Relating to the Status of Stateless Persons, 1954	Yes	UN Treaties Database, 1954 Convention
IOB	1	b		If yes, when was ratification/accession?		19 July 2004	Idem
IOB	1	c		Are there reservations in place? Please list them.	Best practice is no reservations. If there are, they should have little or no impact on the rights of stateless people.	<p>Yes. Declaration (effectively a reservation) has been made:</p> <ol style="list-style-type: none"> 1. Pursuant to Article 27 of the Convention, identity papers shall be issued only to stateless persons having permanent residence permits in the territory of the Czech Republic in accordance with the country's national legislation. 2. Article 23 of the Convention shall be applied to the extent provided by the national legislation of the Czech Republic. 3. Article 24, paragraph 1(b) shall be applied to the extent provided by the national legislation of the Czech Republic. 4. Pursuant to Article 28 of the Convention, travel documents shall be issued to stateless persons having permanent residence permits in the territory of the Czech Republic in accordance with the country's national legislation. Such persons shall be issued "foreigners' passports" stating that their holders are stateless persons under the Convention of 28th September 1954." 	<p>UN Treaties Database, 1954 Convention</p> <p><i>Communication no 108/2004, on the accession to the Convention relating to the status of stateless persons, Collection of International Treaties, 2004, "Sdělení č. 108/2004 Sb. m. s., o sjednání Úmluvy o právním postavení osob bez státní příslušnosti,; SBÍRKA MEZINÁRODNÍCH SMLUV ročník 2004", částka 49, ze dne 15. 10. 2004 (CZE)</i></p>

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IOB	1	d		Does the Convention have direct effect?	Best practice is that the Convention has direct effect, though this may depend on the legal regime.	Yes.	Article 10, Constitution of the Czech Republic
IOB	2	a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	UN Convention on the Reduction of Statelessness, 1961	Yes.	UN Treaties Database, 1961 Convention
IOB	2	b		If yes, when was ratification/accession?		19 December 2001	idem
IOB	2	c		Are there reservations in place? Please list them.	As above	No	idem
IOB	2	d		Does the Convention have direct effect?	As above	Yes.	Article 10, Constitution of the Czech Republic
IOB	3	a	Other conventions	State party to European Convention on Nationality 1997? Please list any reservations.	European Convention on Nationality, 1997	Yes. Declaration to article 22: The Czech Republic declares in respect of Article 22, sub-paragraph b, that persons, who are nationals of the Czech Republic and equally nationals of another State Party which does not require obligatory military service and have their habitual residence in the territory of that State Party, shall be considered as having satisfied their military obligations in relation to the Czech Republic if the said habitual residence has been maintained up to the age of 35 years of the persons.	COE, Reservations and Declarations for Treaty No.166 - European Convention on Nationality, Czech Republic
IOB	3	b		State Party to European Convention on Human Rights 1950? Please list any relevant reservations.	European Convention on Human Rights, 1950	Yes. Reservation has been made to articles 5 and 6 to the effect that those articles shall not hinder to impose disciplinary penitentiary measures in accordance with Article 17 of the Act No. 76/1959 of Collection of Laws, on Certain Service Conditions of Soldiers."	COE, Reservations and Declarations for Treaty No.005 - Convention for the Protection of Human Rights and Fundamental Freedoms, Czech Republic

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IOB	3	c		State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Please list any reservations.	Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006	No.	COE, Chart of signatures and ratifications
IOB	3	d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Please list any relevant reservations.	Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive)	Yes. Transposed to national law. No reservations.	Official Journal of the EU, EUR-Lex
IOB	3	e		State Party to Convention on the Rights of the Child 1989? Please list any relevant reservations.	Convention on the Rights of the Child 1989	Yes. No reservations, but Declaration to article 7 (1): "In cases of irrevocable adoptions, which are based on the principle of anonymity of such adoptions, and of artificial fertilization, where the physician charged with the operation is required to ensure that the husband and wife on one hand and the donor on the other hand remain unknown to each other, the non-communication of a natural parent's name or natural parents' names to the child is not in contradiction with this provision."	UNTC, Convention on the Rights of the Child
IOB	3	f		State Party to International Covenant on Civil and Political Rights 1966? Please list any relevant reservations.	International Covenant on Civil and Political Rights 1966	Yes. No relevant declarations and no reservations.	UNTC, ICCPR

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IOB	3	g	State Party to International Covenant on Economic, Social and Cultural Rights 1966? Please list any relevant reservations.	International Covenant on Economic, Social and Cultural Rights 1966	Yes. No reservations.	UNTC, International Covenant on Economic, Social and Cultural Rights
IOB	3	h	State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Please list any relevant reservations.	Convention on the Elimination of all Forms of Discrimination Against Women 1979 Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness.	Yes. No reservations.	UNTC, CEDAW
IOB	3	i	State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Please list any relevant reservations.	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984	Yes. No reservations.	UNTC, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
IOB	3	j	State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Please list any relevant reservations.	International Convention on the Elimination of All Forms of Racial Discrimination 1965	Yes. No reservations.	UNTC, CERD
IOB	3	k	State Party to the International Convention on the Protection of the Rights of all Migrant Workers and Members of their	International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990	No.	UNTC, International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families

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				Families 1990? Please list any relevant reservations.			
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Stateless Population Data

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
POP	1	a	Availability and sources	Does the Government have a 'stateless' category in its data collection systems (e.g. census)? Please list available figures for the total stateless population on the territory and describe how data is disaggregated (e.g. by sex, age, residence).	<p>Gen. Rec. 32, CEDAW: States parties should gather, analyse and make available sex-disaggregated statistical data and trends.</p> <p>Council of the European Union (2015): Recognise the importance of exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness.</p> <p>UNHCR (2014): Improve quantitative and qualitative data on stateless populations.</p> <p>Institute on Statelessness and Inclusion (2014): States should strengthen measures to count stateless persons on their territory.</p>	<p>Yes.</p> <p>Population census from 2011: Category "no citizenship": 1502 people But also category: "not identified": 60208 people (also disaggregated by sex).</p> <p>The Czech Statistical office and the Ministry of the Interior collection data on foreigners in the Czech Republic. Data is disaggregated by nationality, sex, age and by residence. It is published annually.</p> <p>Numbers of the Czech Statistical Office (Annual census): Category: <i>Stateless + Not identified + Other</i>: up to 31.12.2017, there were 808</p> <p>Numbers of the Ministry of the Interior: Statistics on number of stateless persons having legal residence on the Czech territory (disaggregated by type of residence and by sex), published every month. Up to 31 April 2019, there were: - 111 stateless persons with temporary residence permit - 411 stateless persons with permanent residence permit</p>	<p>Czech Statistical Office, Population census, Population by sex, type of residence, citizenship, housing arrangements, ethnicity and religious belief, 2011 (CZE,ENG)</p> <p>Czech Statistical Office, Foreigners in the Czech Republic (Annual Report), 2018 - data up to 31.12.2017(CZE, ENG)</p> <p>Ministry of the Interior of the Czech Republic, Statistics, Foreigners with valid residence, April 2019 (CZE)</p>
POP	1	b		Do government authorities define data categories that may overlap (e.g. unknown nationality) or where	As above	<p>Statistics of Ministry of the Interior: "Citizenship unknown or non-identified" (XXX): 46 persons up to April 2019 "Palestinians": 186 up to April 2019</p>	<p>Ministry of the Interior of the Czech Republic, Statistics, Foreigners with valid residence, April 2019 (CZE)</p>

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				stateless people might be more highly represented (e.g. Palestinian)? Please explain and provide any available figures.		Numbers of the Czech Statistical Office (Annual census): Category: <i>Stateless + Not identified + Other</i> : up to 31.12.2017, there were 808 “Palestine”: 181 up to 31.12.2017	Czech Statistical Office, Foreigners in the Czech Republic (Annual Report), 2018 - data up to 31.12.2017(CZE, ENG)
POP	1	c		What is UNHCR’s estimate for the stateless/at risk of statelessness population and what is the source for this estimate?	As above	There is no available independent estimate by UNHCR. A Mapping Study on Statelessness in the Czech Republic has been conducted recently by UNHCR and is forthcoming.	UNHCR Czech Republic
POP	1	d		Have there been any surveys or mapping studies to estimate the stateless population in the country?	As above	There was no study carried out on this topic until recently. The first mapping study on statelessness was conducted by UNHCR in 2018 and is forthcoming.	UNHCR Czech Republic Czech Ombudsperson Office
POP	1	e		Are there any other sources of estimates for the stateless population not covered by the above? Please list sources and figures.	As above	No.	
POP	1	f		Are there issues with the reliability of data or indications that the stateless population may be over/under reported? If yes, please describe.	As above	Figures are only for those that have legal residence. However, even these data are incomplete and scattered in various registries, which blurs the overall picture of the precise number of legally residing stateless persons. Persons without any legal status are estimated in an annual survey of the Ministry of the Interior and the Immigration Police also counts the number of known irregular migrants (which is however only a fragment of the whole number).	Trimestrial Report on migration, Ministry of the Interior, First trimester of 2019 Czech Statistical Office, Foreigners in the Czech Republic (Annual Report), 2018 - data up to 31.12.2017(CZE, ENG)

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POP	1	g		Please provide any available figures for stateless refugees and/or asylum-seekers and clarify if the Govt also counts these groups in figures for the stateless population (i.e. to avoid under/over-reporting).	As above	<p>Ministry of the Interior provides annual and monthly statistical overview of asylum-seekers in the Czech Republic, also disaggregated by nationality. Persons with granted refugee status are counted separately. In 2018, there were 20 international protection applications initiated by stateless persons. Among those, 18 decisions were rendered, in 1 case asylum was granted and in 7 subsidiary protection was granted.</p> <p>Census of refugees according to their country of origin but there also other groups (people that already came to the Czech Republic with a granted status): <i>“Convention refugee status”</i>: 16 up to April 2019 <i>“Refugee - others”</i>: 1 person up to April 2019</p> <p>The census of the Czech statistical office and of the Ministry of interior correspond.</p>	<p>Ministry of the Interior of the Czech Republic, International Protection in the Czech Republic, annual statistical overview, 2018 (also available in English)</p> <p>Czech Statistical Office, Foreigners in the Czech Republic (Annual Report), 2018 - data up to 31.12. 2017(CZE, ENG)</p>
POP	2	a	Stateless in detention data	Does the Government record and publish figures on stateless people held in immigration detention? If yes, please provide.	As above and see also norms in Detention section.	<p>The Refugee Facilities Administration that manages detention facilities has its internal census of foreigners disaggregated by nationality, sex, age and status (asylum seeker or not). The Immigration Police also records detention decisions, disaggregated by nationality, including a category ‘stateless person’, but these are only internal statistics and are not published. Following a freedom of information request, it was disclosed that 2 stateless people were detained in the first half of 2019 (1 Jan to 26 July 2019).</p>	<p>Refugee Facilities Administration of the Ministry of the Interior, <i>“Správa uprchlických zařízení”</i></p> <p>Freedom of Information Request by OPU to Government.</p>

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POP	2	b		Does the Government record and publish figures on people released from immigration detention due to un-removability? If yes, please provide.	As above	No.	OPU
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Statelessness Determination and Status

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
SDS	1	a	Definition of a stateless person	Is there a definition of a stateless person in national law? Do the definition and exclusion provisions align with the 1954 Convention? Please provide details.	UN Convention Relating to the Status of Stateless Persons, 1954 : Articles 1(1) & 1(2).	No. There is no definition of stateless person in national law. Mention of stateless persons is made in several national acts - Asylum Act, Citizenship Act etc.	Asylum act (available in English of the official website of Ministry of the Interior) Czech Citizenship act (available in English on the official website of Ministry of the Interior)
SDS	1	b	Existence of a dedicated SDP	Which of the following best describes the situation in your country? Choose only one and then proceed to question indicated. 1. There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure (proceed to Question 2a). 2. There is no dedicated SDP but there are other administrative procedures through	UNHCR (2014) : It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments. UNHCR (2016) : Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention.	2.	

Statelessness Determination and Status – 2019

				<p>which statelessness can be identified (e.g. residence permit or naturalisation applications, refugee status determination, ad hoc procedures) (proceed to Question 10a).</p> <p>3. There is a dedicated Stateless Status but no formal procedure for determining this (proceed to Question 15a).</p> <p>4. None of the above. Are there other possibilities for stateless people to regularise their stay without their statelessness being determined (proceed to Question 16a)?</p>			
SDS	10	a	Alternative administrative procedures through which statelessness can be identified (AAP)	<p>If there is no dedicated SDP, are there other administrative procedures through which statelessness can be identified (e.g. residence</p>	<p>ENS (2013): For SDPs to be effective, the determination must be a specific objective of the mechanism in question, though not necessarily the only one. Hoti v. Croatia ECtHR (2018): [the State has a] positive obligation to provide an effective and accessible</p>	<p>The Asylum Act provides in Section 8 d) that the Ministry d) decides on applications made according to the 1954 Convention. However, this is the only mention of this application in the Asylum act and the procedure is not further regulated.</p>	<p>Asylum Act no. 325/1999 Sb. (also available in ENG)</p>

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				<p>permit or naturalisation applications, refugee status determination, ad hoc procedures)</p> <p>If yes, provide details and then proceed to question 11a.</p> <p>If no, proceed to question 15a.</p>	<p>procedure or a combination of procedures enabling the applicant to have the issues of [their] further stay and status determined.</p>	<p>The explanatory memorandum to the amendment of Asylum Act from 2015 (314/2015 Sb.) states that: given the low number of these applications, there is no need to create a special procedure and that <i>for purposes of applications based on this convention, mechanisms of proceedings on international protection applications will be used.</i></p>	<p><i>Explanatory Memorandum to amendment to Asylum act no. 314/2015 Sb.</i></p>
SDS	11	a	Access to procedures (AAP)	<p>How is statelessness identified through other procedures?</p>	<p>UNHCR (2016): Efficient referral mechanisms should be established, while officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels.</p>	<p>The Ministry is competent to decide on these applications based on Section 8 d) of the Asylum Act. However, even though applications have been made since 2016, the Ministry has started to act and decide on them only since January 2019.</p> <p>Since January 2019, if the statelessness of the applicant has been determined by the Ministry, the applicant is delivered a certificate stating their statelessness under the Convention. However, the certificate is only a proof of statelessness of the applicant - it does not grant them any legal status. The ministry has been refusing to grant statelessness status applicants any legal status.</p> <p>However, the Supreme Administrative Court decided in March 2019 that the procedure under Section 8 d) of the Asylum Act should be analogous to the refugee determination procedure, which means that the legal status of applicants</p>	<p>OPU</p>

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						<p>during the proceeding should be the same as of asylum seekers. The court relied on the explanatory memorandum to the Asylum Act and also to general considerations of safeguarding basic human rights of applicants and avoiding their legal limbo.</p> <p>The procedure should be foreseeable, and rules should apply to the Ministry in order to avoid legal limbo - such as rules regarding deadlines for decisions, but also status of persons during the procedure etc.</p>	
SDS	11	b		Are there obligations in law on authorities to consider a claim for statelessness made within another procedure?	UNHCR (2016) : Access to the procedure must be guaranteed.	Not specified in Czech legislation, the only provision of these claims is Section 8 d) of the Asylum Act.	Asylum Act (ENG)
SDS	11	c		Are there clear, accessible instructions on how to make a claim for statelessness?	<p>UNHCR (2014): For procedures to be fair and efficient, access must be ensured (dissemination of info, targeted info campaigns, counselling on the procedures, etc.).</p> <p>UNHCR (2016): Information on the procedure and counselling services must be available to potential applicants in a language they understand.</p>	Not specified. Not a clear procedure established by law.	Asylum Act
SDS	11	d		Is the examination of statelessness claims conducted by a centralised body with relevant expertise? Please note the competent authority and	<p>UNHCR (2014) : States may choose between a centralised procedure or one that is conducted by local authorities. Centralised procedures are preferable as they are more likely to develop the necessary expertise.</p> <p>UNHCR (2016): It is important that examiners develop expertise while</p>	The competent body is the Ministry of the Interior, the Department of Asylum and Migration policy (the same body that decides on asylum applications).	Section 8 d) of Asylum Act.

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				evaluate appropriateness to national context.	ensuring that the procedures are accessible.		
SDS	11	e		Is there training to inform different government bodies about statelessness? If yes, please provide details (e.g. who provides training to whom/how often?)	UNHCR Executive Committee (2006) : Requests UNHCR to actively disseminate information and, where appropriate, train government counterparts on appropriate mechanisms for identifying, recording, and granting a status to stateless persons.	There are currently no trainings of government bodies on the issue. There were only two trainings organised in 2016 and 2017 by UNHCR in cooperation with the Czech Ombudsperson Office on statelessness, however these were focused mainly on lawyers providing free legal aid to migrants in the Czech Republic.	OPU
SDS	11	f		Is there cooperation between agencies that may have contact with stateless people to refer cases for status determination?	UNHCR (2016) : Cooperation between actors working on statelessness and the various government agencies involved in determining statelessness is good practice.	UNHCR or Ombudsperson sometimes refer cases to OPU. No official cooperation.	OPU
SDS	12	a	Assessment (AAP)	Who has the burden of proof when determining statelessness (in law and practice)?	UNHCR (2014) : The burden of proof is in principle shared (both applicant and examiner must cooperate to obtain evidence and establish the facts). UNHCR (2016) : SDPs must take into consideration the difficulties inherent in proving statelessness. UNHCR Expert Meeting (2010) : Individuals must cooperate to establish relevant facts. The burden should shift to the State if an individual can demonstrate they are not a national, on the basis of reasonably available evidence. Hoti v. Croatia ECtHR (2018) : State has responsibility to at least share the burden of proof with the applicant	The burden of proof is in principle shared according to the Asylum Act (interpretation by analogy to the refugee determination procedure according to the Asylum Act).	Asylum Act

Statelessness Determination and Status – 2019

					when establishing the fact of statelessness.		
SDS	12	b		What is the standard of proof? Is it the same as in refugee status determination procedures?	<p>UNHCR (2014): States are advised to adopt the same standard of proof as in refugee status determination ('reasonable degree').</p> <p>Inter-Parliamentary Union (2018). The standard of proof should be in keeping with the humanitarian objectives of statelessness status determination and the inherent difficulties of proving statelessness in the likely absence of documentary evidence.</p> <p>Hoti v. Croatia ECtHR (2018): If statelessness is a relevant factor in the context of access to human rights, the standard of proof when determining the status of statelessness cannot be too high.</p>	It is not specified. But in principle, it should be analogous to the standard of proof applied in decision-making on asylum applications (by analogy, also in accordance with the Supreme Administrative Court jurisprudence).	Supreme Administrative Court (NSS), case no. 4 Azs 365/2018 (CZE)
SDS	12	c		Is there clear guidance for decision makers on how to determine statelessness (including e.g. sources of evidence and procedures for evidence gathering, etc.)?	ENS (2013) : Determining authorities can benefit from concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances.	The Ministry has only decided on a few cases and there are not yet any clear guidelines.	OPU
SDS	13	a	Procedural Safeguards (AAP)	Is free legal aid available during the procedure?	<p>UNHCR (2014): Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means.</p> <p>ENS (2013): If state funded legal aid is available, it should be provided to</p>	It is not specified in the law. To our knowledge, the only people who have made claims were OPU clients. Therefore, free legal aid has been provided.	OPU Section 21 Asylum Act

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					stateless claimants. If there is no state funded legal aid but asylum claimants can access free legal aid free of charge, the same level of access should be provided to stateless people.	For asylum seekers, free legal aid is guaranteed (by law).	
SDS	13	b		Is an interview always offered (unless granting without interview)?	UNHCR (2014) : The right to an individual interview [is] essential.	Yes. This is not specified by law, but it has been the practice of the Ministry in the claims it has dealt with so far.	OPU
SDS	13	c		Is free interpreting offered for interviews?	UNHCR (2014) : The right to assistance with interpretation/translation [is] essential. ENS (2013) : Assistance should be available for translation and interpretation.	No. There has been a case where a free interpreter was not offered.	OPU
SDS	13	d		Are decisions (refusals and grants) given in writing with reasons?	UNHCR (2014) : States are encouraged to incorporate the safeguard that decisions are made in writing with reasons.	Yes. By analogy with the Asylum Act and international protection decisions, and according to practice, they are always given in writing.	Section 24a (1) of Asylum Act OPU
SDS	14	a	Stateless Status (AAP)	Does recognition of statelessness result immediately in automatic permission to stay/legal status? If not, please describe any additional requirements.	UNHCR (2014) : The status granted to a stateless person in a State Party must reflect international standards. Although the 1954 Convention does not explicitly require States to grant a person determined to be stateless a right of residence, granting such permission would fulfil the object and purpose of the treaty.	No. The decision expressly states that it does not give any legal right to stay. The person is then informed about the only possibility on how to legalise their status. If the person does not have any other legal status, they have to go to the Immigration Police Office, where the Removal Procedure will be started. Then an Administrative expulsion decision is given by the police with the notification that "departure is not possible" according to §179 of the Act on Residence of Foreigners. The person can then apply for a "Tolerated Stay Visa", granted by the Ministry. However, this possibility is not available to persons who have had a criminal expulsion ordered by the criminal court before	Act on Residence of Foreign Nationals in the Czech Republic no. 326/1999 Sb. (CZ) "Immigration Act" Act on Residence of Foreign Nationals in the Czech Republic (ENG) "Immigration Act"

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						(which is sometimes the case for not complying with the previous removal order).	
SDS	14	b		How long is initial status granted for and is it renewable?	UNHCR (2014) : It is recommended that States grant recognised stateless people a residence permit valid for at least two years, although longer permits, such as five years, are preferable in the interests of stability. Permits should be renewable.	The <i>Tolerated Stay Visa</i> is granted for one year and is renewable after one year for a long term stay for the purpose of tolerated stay on the territory (2 years renewable). After 5 years in total, the person can ask for permanent residence.	Section 33(3) of Immigration Act. Section 43 of Immigration Act. Section 68.2b) of Immigration Act.
SDS	14	c		What other rights are granted to recognised stateless people (e.g. travel document, work, healthcare, social security, education, housing, family reunion etc.)?	UN Convention Relating to the Status of Stateless Persons, 1954 UNHCR (2014) : The status granted to a stateless person in a State Party must reflect international standards.	<i>Tolerated Stay Visa</i> : a person can apply in order to be part of public health insurance after at least one year stay on the Visa, when it is renewed in the form of a long-term tolerated stay (but even then public health insurance is not automatic, but only accorded in humanitarian cases and it is based on discretion of the Ministry of Interior), a special request has to be made to obtain a work permit (it is also not automatic that the person will succeed with the request, it is subject to criteria set out in the Employment Act). Along with the visa application, the person can ask for “an identity document for travelling” which is not a passport but is accepted as an identity travel document by the Czech Immigration Police and some other countries. However, travelling abroad is further complicated for the stateless holders of Tolerated Stay Visa, even if the identity document for travelling would be accepted by the country they travel to, because the Visa	Section 48, 50(3), 113 and 114 of Immigration Act Section 97 of Czech Employment Act no. 435/2004 (regarding work permit)

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						expires once the person leaves the territory of the Czech Republic (which effectively means the stateless person could not come back once leaving the country). For permanent residents, the Czech Republic will issue a foreigner's passport, which is a regular travel document.	
SDS	15	a	Access to nationality (AAP)	In what timeframe do stateless people acquire the right to apply for naturalisation and how does this compare to others with a foreign nationality? Please describe the procedure and note whether this is facilitated for stateless people (e.g. exemption from citizenship/language tests, fee waiver). [Section complete, proceed to DET]	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 32</p> <p>UNHCR (2016): It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons.</p> <p>Council of Europe Committee of Ministers (1999): Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory.</p> <p>ENS (2013): The main benchmark is if there is any preferential treatment for stateless people compared to the general rules applied to those with a foreign nationality.</p>	<p>Generally, it is possible to apply for naturalisation only after five years of permanent residence (which can be gained after 5 years of stay based on visas and long-term stay).</p> <p>Other conditions:</p> <ul style="list-style-type: none"> - knowledge of Czech language (exemptions for people under 15 and over 65, mentally disabled, or if they have studied in Czech for at least 3 years) - citizenship test (Czech constitution, history, geography, with the same exceptions as above) - proof of revenue for the last 3 years - the applicant must not be a burden for the social security system - no criminal record <p>If the stateless person holds a permanent residence permit, the special provision says that the requirement of five years of permanent residence can be lifted (at the discretion of the Ministry). Facilitation of naturalisation is also provided by the possibility to lift the condition that the person applying for naturalisation must not be a burden on the social security system. Two</p>	<p>Section 14 Act on Citizenship (ENG)</p> <p>Section 15 of Act on Citizenship</p>

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					<p>conditions can therefore be lifted for stateless persons to facilitate their naturalisation (both also apply to refugees).</p> <p>The application itself is free. In case of a positive answer a fee must be paid: 2000 CZK for adults and 500 CZK for minors and refugees. Upon discretion of the Ministry, the fee can be reduced to 500 CZK in exceptional cases and to 100 CZK for minors and refugees. No mention of stateless persons but they can fall into the category of exceptional cases.</p>	<p>Act no. 634/2004 on administrative fees, "Zákon č. 634/2004 Sb., o správních poplatcích, ve znění pozdějších předpisů", (CZE)</p>
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Detention

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
DET	1	a	Detention screening	Are immigration detention powers provided for in law? Please provide the legal source(s).	ICCPR Article 9(1) ECHR Article 5 (1)	Yes. Detention can be decided by the Immigration Police for the purpose of expulsion, or by the Ministry of the Interior (if the person is an asylum-seeker) and there is <i>a risk of non-respect</i> of alternative measures. This <i>risk</i> is justified mainly by violation of provisions of Czech law in the past (violation of immigration law - irregular status, illegal entry, previous non-respect of expulsion decision, previous non-respect of alternative measures, violation of other Czech laws - criminal record, threat to security or public order) etc.	Articles 124 - 129 of Act No. 326/1999 Coll. on the stay of foreigners in the territory of the Czech Republic, as amended (the "Immigration Act"). Article 46a of Asylum Act
DET	1	b		Does domestic law allow immigration detention for purposes other than those listed under ECHR 5(1)(f)?	ECHR Article 5(1)(f)	No.	
DET	1	c		Does a proposed country of removal need to be identified before a person is detained for removal? Please describe the situation in law and in practice.	ICCPR Article 7: Repeated attempts to expel a person to a country that refuses to admit them could amount to inhuman or degrading treatment. Auaad v Bulgaria ECtHR (2011) : The only issue is whether the authorities were sufficiently diligent in their efforts to deport the applicant. EU Returns Directive : Any detention shall only be maintained as long as removal arrangements are in progress and executed with due diligence.	No. The only obligation is the existence of a reasonable prospect for removal - the authority has to justify that the removal is in practice possible (this can also be satisfied if there are more possible countries of removal, but at least one of them is reasonably expected to be the one where removal will be successful). In practice, the authorities identify the state where the person will be returned in the decision on detention (although this country can change based on new information that comes	§126 of Immigration Act: purposes of detention Jurisprudence of Supreme Administrative Court, NSS, case no. 1 As 12/2009 – 61 from 15 April 2009 OPU casework

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						up during the proceeding, when the person may still be detained).	
DET	1	d	Is statelessness juridically relevant in decisions to detain? Please describe how (risk of) statelessness is identified and whether referral to an SDP is possible from detention.	<p>Aaad v Bulgaria ECtHR (2011) Mikolenko v. Estonia ECtHR (2009): Detention may only be justified as long as deportation proceedings are being conducted with due diligence. UNHCR (2014): Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. Equal Rights Trust (2012): States must identify stateless persons within their territory or subject to their jurisdiction as a first step towards ensuring the protection of their human rights. International Commission of Jurists (2014): The detention of stateless persons can never be justified when there is no active or realistic progress towards transfer to another State.</p>	<p>Statelessness can be relevant in an individual case, as an obstacle to removal. Detention is only justifiable where there is a reasonable prospect of removal. Statelessness or impossibility to return a person constitutes an obstacle to removal. Therefore, it can be a relevant argument (in court). The primary focus is nevertheless on the possibility of return, not on statelessness. In practice, it often takes a long time before the impossibility to remove the person because of statelessness is established, while the person is in detention.</p> <p>It is possible to apply for determination of statelessness from detention. The application is made in writing to the Ministry of the Interior with the help of the lawyer present in the detention centre. However, we do not have any practice yet about the legal consequences of this claim (if the procedure is initiated in detention, if it can constitute a reason for release etc.)</p>	<p>§126 of Immigration Act: purposes of detention</p> <p>Returns directive, Article 15.4. <i>When it appears that a reasonable prospect of removal no longer exists for legal or other considerations or the conditions laid down in paragraph 1 no longer exist, detention ceases to be justified and the person concerned shall be released immediately.</i></p> <p>Jurisprudence of Supreme Administrative Court, NSS, case no. 1 As 12/2009 – 61 from 15 April 2009</p> <p>OPU</p>	

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DET	1	e		Are stateless people detained in practice?		<p>Yes. In practice, no assessment of statelessness is done by authorities prior to rendering a detention decision. Therefore, statelessness often comes out later when the person is detained. However, even a recognised stateless person can be detained because they can be (in theory) removed according to law.</p>	<p>§121 of Immigration Act</p> <p>OPU</p>
DET	1	f		Does law (and/or policy) provide that immigration detention should be used only as a last resort, after all alternatives have been exhausted in each individual case?	<p>UNHCR (2014): Detention is a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient.</p> <p>EU Returns Directive: Article 15(1)</p>	<p>There is a need to assess whether alternatives to detention would be effective in each individual case, but the authorities do not have to exhaust those alternatives prior to detention. In practice, the police justify the ineffectiveness of alternative measures by the risk of non-respect of the removal decision (with regard to the violation of Czech immigration laws in the past, the level of integration, official address where the person is registered, etc.)</p> <p>For asylum-seekers detained for transfer under the Dublin procedure, the detention condition is a risk of absconding. The risk of absconding is justified mainly if the person has previously stayed irregularly on the territory, has not accepted in the past the transfer decision or has tried to abscond, has expressed the intention not to leave the country or if this intention is obvious from their behaviour. Risk of absconding is also justifiable when the country responsible for the applicant is not a neighbour state and the asylum seeker cannot legally travel to that</p>	<p>§124 and §124b, §129 of Immigration Act</p> <p>§46a of Asylum Act</p> <p>OPU casework</p> <p>§129 (4) of Immigration Act</p>

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						state or has not given any address of stay on the Czech territory.	
DET	1	g		Are individual vulnerability assessments carried out before a decision to detain (or soon after)? Please note whether statelessness is considered to be a factor increasing vulnerability.	<p>ENS (2015): Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed.</p> <p>EU Returns Directive: Article 16(3)</p> <p>EU Returns Handbook (2017): Attention should be paid to the specific situation of stateless persons.</p> <p>Council of the European Union (2013): European entities should assess the situation of LGBTI persons in detention.</p>	Vulnerability is assessed only in the context of detention of asylum seekers by the Ministry of the Interior. In the context of immigration detention, which is decided by the Immigration Police, the law does not provide for any relevance of individual vulnerability for the decision-making on detention and in practice no vulnerability assessment is carried out. Statelessness is not considered to be a vulnerability factor - neither in the context of immigration detention, nor for the purpose of detention of asylum-seekers. No special treatment for stateless persons is provided for in law.	Section 124 et seq. of the Immigration Act Section 46a of the Asylum Act
DET	2	a	Alternatives to immigration detention	Are alternatives to detention established in law and considered prior to any decision to detain?	<p>ICCPR Article 9</p> <p>FKAG v Australia HRC (2013): Any decision relating to detention must consider less invasive means of achieving the same ends.</p> <p>UN General Assembly (2009): Calls upon all States to adopt alternative measures to detention.</p> <p>UNHCR (2014): Detention can only be justified where other less invasive or coercive measures have been considered and found insufficient.</p> <p>Human Rights Council (2012): The obligation to always consider alternatives before resorting to detention should be established by law.</p>	<p>Yes. Authorities have to consider all alternatives to detention in each individual case prior to rendering a decision to detain. Alternatives vary for persons detained for removal (or Dublin transfer) and for detained asylum-seekers.</p> <p>For people subject to removal or transfer (according to §123b of Immigration Act):</p> <ul style="list-style-type: none"> - <i>selection of the address where the person is required to stay (for check-ups)</i> - <i>bail</i> 	Articles 123b-129 of Immigration Act

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					<p>EU Returns Directive: Article 15(1) Equal Rights Trust (2012): States have an obligation to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive. International Detention Coalition (2015): Immigration detention should be used only as a last resort in exceptional cases after all other options have been shown to be inadequate in the individual case.</p>	<p>- <i>regular reporting at the Immigration Police station</i></p> <p>As of 31 July 2019, with an Immigration Act Amendment, a new alternative measure has been introduced: <i>designation of residence by the police and obligation to be present there for check-ups</i></p> <p>Alternatives for asylum seekers according to §47 of Asylum Act:</p> <ul style="list-style-type: none"> - <i>obligation to stay in residential centre for asylum-seekers</i> - <i>regular reporting at the Ministry of the Interior office (Asylum Department)</i> 	Articles 46a and 47 of Asylum Act
DET	2	b		Is there evidence that immigration detention is used in practice prior to all alternatives being considered?	As above.	Yes. In practice, alternatives are used only in minimum of cases.	Czech Ombudsperson Office
DET	3	a	Procedural safeguards	Is there a maximum time period for immigration detention set in law? What is it?	<p>UN Human Rights Council (2010): A maximum period of detention must be established by law and upon expiry the detainee must be automatically released. UNHCR (2012): To guard against arbitrariness, maximum periods of detention should be set in national law. EU Returns Directive: Article 15(5) Equal Rights Trust (2012): Detention should always be for the shortest time possible.</p>	Yes. The maximum time period is 180 days. This period can be further prolonged if the person or the country of origin do not cooperate but cannot exceed in total 545 days. For families with children, foreigners under 18 years of age and unaccompanied minors it is 90 days. For asylum seekers, it is 120 days.	Article 125 of Immigration Act Article 46a(5) of Asylum Act

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DET	3	b	Does law/policy provide that individuals must be informed in writing of the reasons for their immigration detention?	<p>UN General Assembly (1988) : Anyone who is arrested shall be informed at the time of the reason for his arrest.</p> <p>EU Returns Directive: Detention shall be ordered in writing with reasons being given in fact and in law.</p> <p>Equal Rights Trust (2012) : Stateless detainees shall receive their order of detention in writing and in a language they understand.</p> <p>International Commission of Jurists (2014): The authorities shall ensure that sufficient information is available to detained persons in a language they understand on the nature of their detention and reasons for it.</p>	<p>Yes. The police must render a decision to detain in 48 hours after arrest. In this decision it must set out the legal basis for detention with reasoning, the initial duration of detention with regard to the steps necessary to conduct the removal.</p> <p>If the person applied for asylum in detention, the ministry has a possibility to render a decision to detain (maximum after 5 days from asylum application). The Ministry must set out the initial duration of detention.</p>	<p>Article 124, 124b, 125 of Immigration Act</p> <p>Article 46a(4), (5), (6), (7) of Asylum Act</p>
DET	3	c	Are detainees provided with information on their rights, contact details of legal advice and support providers, and guidance on how to access an SDP?	<p>Equal Rights Trust (2012) : Detaining authorities are urged to provide stateless detainees with a handbook in a language and terms they understand, containing information on all their rights and entitlements, contact details of organisations which are mandated to protect them, NGOs and visiting groups and advice on how to challenge the legality of their detention and their treatment as detainees.</p>	<p>The police must notify the person about the possibility to request release after 1 month or to appeal immediately to the court against the detention decision. In every detention facility, detainees are provided with information about free legal counselling (contact, schedule). No guidance on the possibility to apply for determination of stateless is provided in practice, neither in immigration detention facilities nor in the detention facility for asylum seekers (Reception Centre).</p>	<p>Article 124(7) of Immigration Act</p> <p>Article 46a (6), (7) of Asylum Act</p> <p>OPU</p>
DET	3	d	Are there regular periodic reviews of detention before a court or independent body, which can order release?	<p>Kim v Russia ECtHR (2014) : The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure.</p> <p>Equal Rights Trust (ERT) (2012) : To avoid arbitrariness, detention should be subject to automatic, regular and periodic review throughout the period of detention,</p>	<p>There is a possibility to appeal to the court against the detention decision immediately (deadline of 30 days). After the first review is finished, it is possible to appeal 30 days after the publication of the previous negative decision of the court. Often in practice the person has a chance to challenge the detention decision only</p>	<p>§172 of Immigration Act.</p>

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					before a judicial body independent of the detaining authorities.	once (the court often sends the final version of the negative decision in 30 days (which is the maximum deadline) and an appeal can be done only after that. However, every subsequent decision on prolongation of detention can also be challenged before a court. The review of detention occurs only if the detainee requests one.	
DET	3	e		What remedies are available to challenge detention? Please any obstacles to accessing effective remedies in practice.	<p>ICCPR Article 9(4) ECHR: Article 5(4) Kim v Russia ECtHR (2014) : The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure. Alimuradov v. Russia ECtHR (2019): The individual must have at their disposal a procedure for judicial review of the lawfulness of detention capable of leading to release.</p>	<p>Yes. There is a possibility to appeal to the court against the detention decision immediately (deadline of 30 days for the detainee). In case of a negative decision, it is possible to lodge a complaint to the Supreme Administrative Court (deadline of 14 days after the publication of the judgement). However, in case of a negative decision, the court often publishes the judgement in writing on the last day of its deadline (30 days) and only after that is it possible to lodge a complaint. In case of a positive decision, the writing is immediate, and the person should be released without delay.</p> <p>Apart from the appeal to the court against the detention decision, there is also a possibility to request release by the authority that decided to detain (the Immigration Police or the Ministry of the Interior), every month. The request for release is admissible 30 days after the final (negative) decision of the court. If unlawful detention is found by the court, there is a possibility to ask for damages.</p>	<p>§172 of Immigration Act. § 129a of Immigration Act §46a (7) of Asylum Act</p> <p><u>Act no. 82/1998 coll., on State Liability caused by exercise of public authority by decision or by wrong administrative action</u> <i><u>“Zákon o odpovědnosti za škodu způsobenou při výkonu veřejné moci rozhodnutím nebo nesprávným úředním postupem”</u></i>, (CZE)</p>

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DET	3	f		Are there guidelines in place governing the process of re-documentation and ascertaining entitlement to nationality for the purpose of removal?	<p>Equal Rights Trust (2012) : The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation.</p> <p>ENS (2015) : The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality.</p>	Not known. These steps are undertaken by the Immigration Police within the implementation of the return decision (forced return), it communicates with the respective countries of origin and asks them to issue travel documents to the person, so that they can be returned. However, there is no publicly available information on specific rules that govern this activity of the police.	OPU
DET	3	g		Is free legal aid available to challenge detention? Please describe any barriers to accessing legal aid in practice.	<p>UNHCR (2014): Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means.</p> <p>EU Returns Directive: Article 13(3)</p>	Yes. Free legal aid is provided regularly (weekly) in every detention facility. The detained person is notified upon arrival about the schedule of the legal service. They can opt for representation by an NGO working with migrants or the court can appoint an attorney in law that is free of charge for the detainee.	AMIF Project - OPU
DET	4	a	Protections on release	Are people released from detention issued with identification documents (including confirmation of their stateless status) and protected from re-detention?	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 27</p> <p>UNHCR (2014) : Being undocumented cannot be used as a general justification for detention.</p> <p>ENS (2015) : State parties to the 1954 Convention have an obligation to provide stay rights to stateless people who have been released from detention.</p> <p>Equal Rights Trust (2012): Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p>	No.	OPU
DET	4	b		If the purpose of detention cannot be fulfilled and the person is released, what legal status and	<p>Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vateshnite raboti ECJ (2009): After the maximum period of detention has expired, the person must be released immediately. A lack of valid documentation or inability to</p>	In principle no legal status is granted on release, the person is given a one-month departure order visa, in practice for 30 days even if the person does not hold any travel document. However, this is not a long-term	Practice of the Immigration Police - no legal provision. OPU

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				rights are provided to them in law?	support themselves should not be a deterrent to release. Equal Rights Trust (2012) : Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.	solution and after 30 days the person is in limbo again. The law does not currently provide any legal possibility of obtaining a status or identification document if the person cannot be returned.	
DET	4	c		If re-detention occurs, is the cumulative time spent in detention counted towards any maximum time limits?	Equal Rights Trust (2012) : When calculating the total time spent by an individual in detention, it is highly desirable that time spent in detention on previous occasions is taken into consideration.	No. There is no provision mentioning cumulative detention - the maximum time is always counted separately for each detention.	Article 125 of Immigration Act
DET	5	a	Return & readmission agreements	Is statelessness considered a juridically relevant fact in any bilateral readmission and/or return agreements?	UNHCR (2014) : Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.	The Czech Republic mostly implements EU Readmission Agreements where stateless persons are considered (for ex. Readmission Agreement with Serbia or Ukraine). As for the bilateral agreements, statelessness is generally considered – a procedure to determine nationality or statelessness is considered in some bilateral agreements (e.g. the agreement with Kosovo), in most of them, there are paragraphs for readmission of third country nationals including stateless persons (Poland – 65/2013, Romania- 148/1994, Moldavia 117/2004, etc.). The only bilateral agreement that does not mention stateless persons at all is the one with Vietnam (26/2008).	Agreement between the Czech Republic and the Republic of Kosovo on the readmission of persons residing without authorisation, no. 12/2013- safeguards for persons born on the territory of ex-Yugoslavia, interviews to determine nationality etc.
DET	5	b		Are you aware of cases of cases of stateless people being returned under such agreements?		No.	

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Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
PRS	1	a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to be granted nationality? [If yes, continue to PRS1b. If no, proceed to PRS1h]	<p>UN Convention on the Reduction of Statelessness, 1961: Article 1</p> <p>European Convention on Nationality, 1997: Article 2</p> <p>Convention on the Rights of the Child 1989: Article 7</p> <p>Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017): States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless.</p> <p>European Parliament (2018): The EU and its MS should ensure that childhood statelessness is adequately addressed in national laws in full compliance with Article 7 CRC.</p>	Yes.	Section 5, Act on Citizenship of the Czech Republic no. 183/2013 (available in ENG)
PRS	1	b		Is the provision for otherwise stateless children to acquire nationality automatic or non-automatic (i.e. by application)?	<p>UNHCR (2012): The 1961 Convention provides Contracting States with two alternatives for granting nationality to otherwise stateless children born in their territory: either automatic acquisition upon birth or upon application.</p> <p>ENS (2015): The 1961 Convention and the ECN oblige the conferral of nationality to otherwise stateless children born on the territory. The optimal method is to grant nationality automatically at birth.</p>	It is automatic: acquisition upon birth if both parents are stateless. If they are not, it is non-automatic and an application has to be made, which is decided by the Ministry of Interior	Section 5 and 29 of Citizenship Act
PRS	1	c		Is it a requirement that the parents are also stateless for the otherwise stateless child to acquire nationality?	<p>UNHCR (2012): The test is not an inquiry into whether a child's parents are stateless.</p> <p>ENS (2015): Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the parents hold</p>	Both parents must be stateless in order to automatically acquire Czech nationality. Other children born stateless on the territory have to lodge an application for nationality and in this proceeding,	Section 5 of Citizenship Act

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					a nationality but are unable to pass this on.	there is no requirement that the parents have to be stateless too.	
PRS	1	d		Are stateless children required to prove they cannot access another nationality to acquire the nationality of the country of birth? If yes, please describe how this is determined in practice.	UNHCR (2012) : A Contracting State cannot avoid the obligations to grant its nationality to a person who would otherwise be stateless based on its own interpretation of another State’s nationality laws. The burden of proof must be shared between the claimant and the authorities. Decision-makers must consider Articles 3 & 7 CRC and adopt an appropriate standard of proof. Special procedural considerations to address the acute challenges faced by children in communicating basic facts about their nationality should be respected.	Yes. In case both parents are stateless, the acquisition is automatic. Otherwise, stateless children have to apply for a Certificate of Czech Citizenship (CCC) - in this case they have to prove that the child has not become stateless only because the parent who holds a nationality failed, without serious reasons, to take necessary steps before the authorities of their country of nationality that would ensure that the child obtains the nationality of that country upon birth.	Section 5 and 29, Subpart 4, Section 41 and following of Citizenship Act
PRS	1	e		Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, please specify length and if this must be legal residence.	UN Convention on the Reduction of Statelessness, 1961 : Article 1(2) UNHCR (2012) : States may stipulate that an otherwise stateless individual born in its territory fulfils a period of ‘habitual residence’ (understood as stable, factual residence, not legal or formal residence) not exceeding five years preceding an application nor ten years in all. Convention on the Rights of the Child, 1989 : Articles 3 & 7 Committee on the Rights of the Child (2015) : Recommends the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to nationality without any conditions.	No. Acquisition at birth (automatic) or on application which can be lodged immediately after birth.	Section 5 and 29 of Citizenship Act

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					European Convention on Nationality, 1997 : Article 6(2)(b)		
PRS	1	f		Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, please specify length and if this must be legal residence.	Committee on the Rights of the Child (2011) : The outcome of an application by the parents of a child born on the territory should not prejudice the right of the child to acquire the nationality of the State. ENS (2015) : Demanding that the child or their parents reside lawfully on the territory is prohibited by the 1961 Convention.	At least one of the parents must have legal residence, which is at least temporary residence on the Czech territory of more than 90 days, at the time of the child's birth. This requirement is always there - both for the automatic acquisition of nationality if both parents are stateless, and for the grant of nationality by application if both parents are not stateless.	Section 5 and 29 of Citizenship Act
PRS	1	g		What are the age limits (if any) for making an application for nationality for a stateless person born on the territory?	UN Convention on the Reduction of Statelessness, 1961 : Article 1(2) UNHCR (2012) : Contracting States need to accept applications lodged at a time beginning not later than the age of 18 and ending not earlier than the age of 21. ENS (2015) : Closing the window of opportunity to apply for a nationality has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child.	No limit. A person can apply to the competent authority (by place of birth) any time.	

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PRS	1	h		<p>Are there specific provisions to protect the right to a nationality of children born to refugees?</p>	<p>UNHCR (2012): Where the nationality of the parents can be acquired through a registration or other procedure, this will be impossible owing to the very nature of refugee status which precludes refugee parents from contacting their consular authorities.</p>	<p>Yes. Section 29 of the Citizenship Act provides that: <i>The citizenship of the Czech Republic pursuant to Article (1) above shall not be granted to a child who became homeless as a result of the fact, that their parent failed, without any serious reason, to contact the respective authorities in the country they are a citizen of and take steps necessary for the child to be granted citizenship of that country. Should the parent have received, in the period when such steps could have been taken, international protection in the Czech Republic in the form of asylum or supplementary protection, such fact shall be perceived as a serious reason pursuant to the first sentence above.</i></p> <p>Holding the status of refugee in the Czech Republic (asylum or subsidiary protection) is considered as a serious reason in practice by the Ministry.</p>	<p>Section 29.4 of Citizenship Act</p>
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PRS	2	a	Foundlings	Are foundlings granted nationality automatically by law? If not automatic, please describe the procedure.	UN Convention on the Reduction of Statelessness, 1961 : Article 2 European Convention on Nationality, 1997 : Article 6(1)(b)	Yes. Foundlings acquire Czech nationality on the day they are found, if they are under three. Foundlings over three years-old, whose identity cannot be established because of their young age or disability, acquire Czech nationality upon application lodged by a guardian. Section 10 of the Citizenship Act provides that a child under three found on the territory, whose identity is not known, acquires Czech nationality the day they are found if in a period of 6 months the authority has not found out that the child has acquired the nationality of another state. If there is a doubt about the day of the finding, the Ministry of Interior decides upon a date of acquisition of nationality, in a procedure initiated by a legal guardian or by the authority.	Section 10 and 30 of Citizenship Act
PRS	2	b		Is there an age limit (e.g. 'new-born' or 'infant') in law or practice specifying when a foundling would qualify for nationality?	UNHCR (2012) : At a minimum, the safeguard should apply to all young children who are not yet able to communicate information about the identity of their parents or their place of birth.	No. For foundlings aged three and over, the acquisition of nationality is not automatic, but the application can be lodged by their guardian - there is no age limit, which is an example of good practice.	Section 10 of Citizenship Act
PRS	2	c		Can nationality be withdrawn from foundlings if this leads to statelessness?	UNHCR (2012) : Nationality acquired by foundlings may only be lost if it is proven that the child possesses another nationality.	No.	

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PRS	3	a	Adoption	Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is acquired?	UN Convention on the Reduction of Statelessness, 1961 : Article 5 ENS (2015) : Children may be exposed to a (temporary) risk of statelessness during the adoption process due to the nationality law of the child's country of origin.	No. In order to lose Czech nationality, the parents must prove the child has or will acquire another nationality. There are safeguards under Section 40.7 and 9 (see Withdrawal of Nationality).	Section 40 of Citizenship Act
PRS	3	b		Does a foreign child adopted by national parents acquire nationality? Please specify any age limits and/or risk of statelessness during the adoption process.	European Convention on Nationality, 1997 : Article 6(4)(d) Committee on the Rights of the Child (2015) : Ensure that the child is not stateless or discriminated against during the waiting period between arrival and formal adoption.	Yes. Nationality is acquired upon adoption if at least one parent is a Czech national. Acquisition of nationality occurs only after the adoption has been accepted by a national authority, or when an adoption decided by a foreign authority has been accepted according to private international law by Czech authorities. No limits or risks of statelessness found.	Section 8 of Citizenship Act Section 45 of Citizenship Act
PRS	4	a	<i>ius sanguinis</i>	Can children born to nationals abroad acquire nationality by descent (<i>ius sanguinis</i>) in general and/or if they would otherwise be stateless?	UN Convention on the Reduction of Statelessness, 1961 : Article 4 UNHCR (2012) : Where a child who would otherwise be stateless is born to parents of another Contracting State but does not acquire the nationality of the State of birth responsibility falls to the Contracting State of the parents to grant its nationality to the child.	Yes. At least one of the parents must be a Czech national.	Section 8 of Citizenship Act
PRS	4	b		Are there any discriminatory conditions in law and/or practice for the acquisition of nationality by descent (e.g. differential treatment of children born out of wedlock,	Genovese v. Malta ECtHR (2011) : The state must ensure that the right to nationality is secured without discrimination. CEDAW Gen. rec. No. 32, 2014 : Requires States parties to ensure that women and men have equal rights to confer their nationality to their children and that any obstacles to practical implementation of such laws are removed. UNHCR (2014) : Action 4	Not to our knowledge.	Citizenship Act Czech Ombudsperson's Office

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				rights of father/mother/same-sex parents to confer nationality, etc.)?			
PRS	5	a	Birth registration	Does the law provide that all children are registered immediately upon birth regardless of the legal status and/or documentation of parents?	<p>Convention on the Rights of the Child, 1989: Article 7</p> <p>International Covenant on Civil and Political Rights, 1966: Article 24(2)</p> <p>Council of Europe (2009): Member states should register the birth of all children born on their territory even if they are born to a foreign parent with an irregular immigration status or the parents are unknown.</p> <p>UNHCR (2012): Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents.</p> <p>UNHCR (2014): Action 7</p> <p>UN Sustainable Development Goal 16.9</p>	<p>Yes. The registration of children is done by the facility where the child was born. In case of home birth, parents must register their child at the birth registry according to the place of birth. The documentation to be presented for registration varies according to the situation:</p> <ul style="list-style-type: none"> - if the child is born to a married couple, one of the parents must present their ID or passport - if the father is known, the mother presents her birth certificate - if a child is born to an unmarried couple, both parents must present their birth certificates <p>The obligation to present documentation can be waived for reasons deserving special concern, mainly in the case of applicants for international protection, refugees granted asylum or subsidiary protection. In this case a solemn declaration is sufficient.</p>	<p>Act on Birth registry (zákon o matrikách) no. 301/2000 Sb. (CZE)</p> <p>§ 15 of Act on Birth registry</p> <p>§16 of Act on Birth Registry</p> <p>§ 16.6 Act on Birth Registry</p>
PRS	5	b		Are all children issued with birth certificates upon registration? If no, please describe legal status of documentation issued.	<p>UN Human Rights Council, Resolution A/HRC/RES/20/4: Underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of immigration status and that of parents or family members.</p> <p>Committee on the Rights of Migrant Workers and Members of their Families &</p>	<p>Yes. All children, regardless of their nationality, will get a Czech birth certificate, issued by the birth registry. The birth certificate is issued within 30 days from the birth notification.</p>	<p>Act on Birth registry</p>

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					Committee on the Rights of the Child (2017) : Take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents.		
PRS	5	c		<p>Is the child's nationality determined or recorded upon birth registration? If yes, please describe how and by whom (e.g. if the mother/father's nationality is recorded and/or automatically attributed to the child, if there's a formal procedure, if information on both parents is recorded etc.)</p>	Convention on the Rights of the Child, 1989 : Articles 3 & 7	<p>The child's nationality is not recorded in the birth registry nor the birth certificate. If the child acquires Czech nationality by birth, only a birth certificate is needed. If a Czech child is born outside of the Czech Republic, they must be registered in a special birth registry to get a Czech birth certificate. If a child that does not acquire Czech nationality is born, parents have an obligation to apply for a visa for them within a deadline of 60 days. Parents' nationality is mentioned on the birth certificate.</p>	<p>Act on Birth Registry</p> <p>Ministry of the Interior, Acquisition of Czech citizenship (CZE)</p> <p>Ministry of the Interior, Children born on the Czech territory (CZE)</p>
PRS	5	d		<p>If a child's nationality is not determined or recorded upon birth registration, is there a legal framework to determine the child's nationality later? If yes, please describe the procedure, including the legal grounds, deadlines and competent authority.</p>	Convention on the Rights of the Child, 1989 : Articles 3 & 7	<p>The child's nationality will be determined when they apply for a Czech passport or for an ID, or visa. In case of a doubt, parents have to apply for a Certificate of Czech Citizenship (CCC), at the birth registry according to the place of birth.</p>	<p>Ministry of the Interior, Acquisition of Czech citizenship (CZE)</p> <p>Citizenship Act</p>

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PRS	5	e	Are there credible reports to suggest that children are prevented from registering in practice because of parents' legal status or other reasons (please specify)?	Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : Urge States parties to take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents. Legal and practical obstacles to birth registration should be removed.	Not known.	
PRS	5	f	Are there mandatory reporting requirements that would deter undocumented parents from coming forward to register their children (e.g. health or civil registry authorities required to report undocumented migrants)?	Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : Legal and practical obstacles to birth registration should be removed, including by prohibiting data sharing between health providers or civil servants responsible for registration with immigration enforcement authorities; and not requiring parents to produce documentation regarding their migration status.	Not known.	
PRS	5	g	Is there a statutory deadline for birth registration? If yes, please state the deadline and whether late birth registration is possible in law and practice.	Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late registration. UN Human Rights Council, Resolution A/HRC/RES/20/4 : Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child.	Yes. The registration is done by the facility where the child is born. In other cases (e.g. home birth), parents (or legal guardians) have the obligation to register their child at the birth registry according to the place of birth. If neither of these happens, the first person that has knowledge of the birth must notify it. The notification is done within 3 days (latest) from birth. The mother will notify the birth within 3 days of the time she is capable of it. The person that	§ 15 Act on Birth registry

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						found out about the birth notifies it within 3 days of finding out about the birth.	
PRS	5	h		Are there additional requirements for late birth registration (e.g. fees, documents, court procedure)? Please describe the procedure including the competent authority and procedural deadlines.	As above	Transgression of the obligation to register a new-born is a criminal offence under the Criminal Offence Code (zákon o přestupcích) and under the Birth Registry Act. It can be punishable by a fine up to 5000 CZK.	Article 79a of Act on Birth Registry
PRS	6	a	Reduction	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	UNHCR (2014) : Action 7	Not known.	
PRS	6	b		Are there particular sections of the population - such as minority groups - believed to be stateless/at risk of statelessness? Please provide details and source of information.	UN Convention on the Reduction of Statelessness, 1961 : Article 9 UNHCR (2014) : Action 4 UN Human Rights Council (2019) : States should take legislative, administrative and policy measures aimed at eliminating statelessness affecting minorities.	No. In the Czech Republic, statelessness is linked only with migration (not with specific ethnicities). Little attention is paid to this issue.	No Academic literature or other relevant sources. Evidence from practice (OPU, Ombudsperson Office)
PRS	6	c		Has the Government implemented any other measures specifically aimed at reducing (risk of)	UN Convention on the Reduction of Statelessness, 1961 UNHCR (2014) : Actions 1 & 8	No.	

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				statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of discriminatory laws, etc.)	UNHCR (2015) : States parties to the 1954 Convention are required to help stateless persons become naturalised citizens.		
PRS	7	a	Withdrawal of nationality	Are there provisions on loss and/or deprivation of nationality established in law? Please describe and state whether there is a safeguard against statelessness in law and practice.	UN Convention on the Reduction of Statelessness, 1961 : Article 8 European Convention on Nationality, 1997 : Article 7(3) Universal Declaration of Human Rights : Article 15(2)	<p>Voluntary renunciation of nationality is the only possibility for withdrawal of Czech nationality. The person who renounces their nationality must prove that they have, or will acquire, another nationality, and meet three further conditions:</p> <p><i>a) Live abroad permanently</i> <i>b) Not be registered for permanent residence in the Czech Republic, and</i> <i>c) be simultaneously a citizen of another country or applied for foreign nationality and have made a declaration of renunciation of Czech nationality in relation to the new nationality.</i></p> <p>There is a safeguard against statelessness arising in the process of a declarant acquiring another nationality.</p>	<p>Section 40.1 of Citizenship Act</p> <p>Section 40.7 Citizenship Act</p> <p>Section 40.9 Citizenship Act</p>
PRS	7	b		Who is the competent authority for withdrawal of nationality and what procedural safeguards are in	UN Convention on the Reduction of Statelessness, 1961 : Article 8(4) European Convention on Nationality, 1997 : Article 11	For voluntary renunciation, the competent authority is the Czech Embassy in the country of the place of residence of the applicant or of the country of the nationality the person has applied for or the	Section 40.3 of Citizenship Act

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				place (legal aid, judicial oversight, appeal, time limit, subject to prior sentencing)?		regional office in respect of the last place of permanent residency of the declarant on the territory of the Czech Republic. Should the declarant never have had a permanent residency on the territory of the Czech Republic, the competent authority shall be the Office of the Municipality Prague 1. To record the voluntary renunciation, there is the information system of the central register of persons who had acquired or lost the nationality of the Czech Republic. The Central Register is maintained by the Ministry of the Interior.	Section 50 of the Citizenship Act
PRS	7	c		Are withdrawal provisions applied in practice?		Not applicable.	

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
LIT	1	a	Published judgements	Number of published judgements adjudicating statelessness (broken down by level of jurisdiction). Please list.		<p>Supreme Administrative Court decision no. 4 Azs 365/2018 regarding legal status of applicants</p> <p>Case regarding status of stateless determination applicants. They should be granted legal status during the procedure. The Ministry cannot choose some provisions of the Asylum Act to apply (such as time limits for decision-making) and not others. The applicant should get a certificate of application that grants them legal stay on the territory in the same way as for the asylum seekers (with access to healthcare and other services). Non-action of the state (in this case the refusal to give any legal status to the applicant - certificate of application) is contrary to their right to private and family life.</p> <p>Supreme Administrative Court decision no. 9 Azs 361/2017 from 19 April 2018 regarding expulsion of stateless persons</p> <p>Before rendering a removal decision (administrative expulsion) of a stateless person, the state must verify its compliance with the 1954 Convention, in particular with</p>	<p>Supreme Administrative Court (Nejvyšší správní soud) case no. 4 Azs 365/2018-74 from 12 March 2019.</p> <p>Supreme Administrative Court decision no. 9 Azs 361/2017 from 19 April 2018</p>

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						<p>Article 31. The provision in the Czech Act on the Residence of Foreigners in its Section 121 (regulating expulsion of stateless persons when the receiving country agrees) does not apply in this case because of dissimilarity of this provision with the relevant provisions of the Convention, which has priority over the provisions of national law.</p> <p>There are no judgments on the determination of statelessness as such yet.</p>	
LIT	1	b		<p>Number of published judgements mentioning statelessness (broken down by level of jurisdiction). Please list.</p>		<p>Supreme Administrative Court Judgement <i>Case regarding detention and reasonable prospects for removal.</i> Statelessness might be an obstacle for removal. Authorities must consider if the person can be removed before rendering a detention decision, taking into account their possible statelessness. However, the authority does not have to determine for sure to which state the person can be removed.</p> <p>Prague District Court Judgement In 2017, the Prague District Court stated inaction of the Ministry of the Interior regarding stateless determination procedure. It obliged the Ministry to act. The Court ruled that procedural aspects of statelessness determination applications should</p>	<p>Supreme Administrative Court, case no. 1 Azs 283/2017 from 22 November 2017</p> <p>Prague District Court case no. 10 A 155/2017 from 29 November 2017</p>

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						<p>be aligned with the asylum application procedure (Asylum Act) regarding deadlines and other procedural aspects, because the SPD procedure is not specified in law. The deadline for decisions aligned with the asylum procedure - 6 months with possibility of prolongation. However, in this case, the Ministry had been inactive for more than a year without notifying the applicant about prolongation of the deadline.</p> <p>Ober dictum, the court also mentioned the legal status of SDP applicants: they should have legal status during the procedure. However, this part of the decision was not binding for the Ministry.</p>	
LIT	2	a	Legal training	<p>Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency).</p>	<p>UNHCR (2016): Officials who may be in contact with stateless persons need to be trained to identify potential applicants for stateless status and refer them to appropriate channels.</p> <p>UNHCR (2010): It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.</p>	<p>There were only two trainings organised in 2016 and 2017 by UNHCR in cooperation with the Czech Ombudsperson's Office on statelessness. These focused mainly on lawyers providing free legal aid to migrants in the Czech Republic. Currently there is no training for judges or lawyers on statelessness.</p>	<p>UNHCR</p> <p>Czech Ombudsperson's Office</p>
LIT	3	a	Pro Bono	<p>Are there specialised lawyers or organisations providing free advice to stateless people or those at risk of statelessness? If yes, please describe.</p>	<p>UNHCR (2014): Applicants must have access to legal counsel.</p>	<p>OPU</p> <p>UNHCR (does not directly provide legal counselling but their lawyers are aware of the issue)</p>	<p>OPU, <i>Organizace pro pomoc uprchlíkům</i>, Organization for aid to refugees</p> <p>Link: www.opu.cz</p> <p>Address: Kovarska 4, 190 00 Prague 9</p> <p>Tel: +420 730 158 781</p>

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						Otherwise, there are no specialised organisations providing advice to stateless people in particular.	UNHCR Czech Republic Link: https://www.unhcr.org/cz/ Address: Železná 24, 110 00 Prague 1 Tel: +420 776 437 775
LIT	4	a	Literature	Is there domestic academic literature on statelessness? Please list and provide references and hyperlinks (where available).		JANKŮ, L.: Postavení a ochrana osob bez státního občanství v České republice. [Legal Situation of Stateless Persons in the Czech Republic and Protection of their Rights] In JÍLEK, D. - POŘÍZEK, P. Pobyť cizinců: vybrané právní problémy II. Brno: Kancelář veřejného ochránce práv, 2015. pp. 256290. ISBN 978-80-7478-916-8. HOFMANNOVÁ, H. Právní postavení osob bez státní příslušnosti v České republice. [Legal Status of Stateless Persons in the Czech Republic] In Jurisprudence 21(5), 2012, s. 13–23.	