



Input by civil society organisations to the Asylum Report 2023

Dear Colleagues,

The production of the *Asylum Report 2023* is currently underway. The annual [Asylum Report series](#) presents a comprehensive overview of developments in the field of asylum at the regional and national levels.

The report includes information and perspectives from various stakeholders, including experts from EU+ countries, civil society organisations, UNHCR and researchers. To this end, we invite you, our partners from civil society, academia and research institutions, to share with us your reporting on developments in asylum law, policies or practices in 2022 (and early 2023) by topic as presented in the online survey.

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

All submissions are publicly accessible. For transparency, 2022 contributions will be published on the EUAA webpage. For reference, contributions to the 2022 Asylum Report by civil society organisations can be accessed [here](#), under 'Acknowledgements'. All contributions should be appropriately referenced. You may include links to supporting material, such as analytical studies, articles, reports, websites, press releases or position papers. If your organisation does not produce any publications, please make reference to other published materials, such as joint statements issued with other organisations. Some sources of information may be in a language other than English. In this case, please cite the original language and, if possible, provide one to two sentences describing the key messages in English.

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

Your input matters to us and will be much appreciated!

*Please submit your contribution to the Asylum Report 2023 by **Friday, 3 February 2023**.*





Instructions

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

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

- ✓ New developments and improvements in 2022 and new or remaining challenges; and
- ✓ Changes in policies or practices, transposition of legislation or institutional changes during 2022.

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

Contributions by topic

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

In 2022, OPU (Organization for Aid to Refugees) continued alerting UNHCR about **unsupervised decisions on denial to access territory at the Prague airport transit zone**. The quasi-procedure of denial of access to territory lacks any procedural guarantees, such as the presence of interpreters, processing a casefile, or access to legal aid. It takes place before the person arriving is able to apply for international protection or consult a lawyer. Oftentimes, this person is unable to contact the outside world and inform anyone about their situation, let alone to approach lawyers. There is also no mechanism or body who would monitor this practice. After the Prague Airport reopened following the Covid closure, there have been approximately 20-30 decisions on denial to access the territory or administrative expulsions monitored monthly, including to persons from countries like Iran, Iraq, Syria.

Moreover, the problematic **policy of imposing an administrative expulsion to prospective asylum seekers** continued to be applied in 2022. Under this policy, the Foreign Police would routinely start a procedure for administrative expulsion with individuals without a residence permit or visa, when these arrived in Zastávka Reception centre in order to apply for asylum. We believe that this practice is in violation of Art. 31 of the 1951 Refugee Convention. Also, the administrative expulsion is issued based on the Foreigners' Act. However, its provisions should by law not be applicable to asylum seekers.¹ Therefore, we are convinced that administrative expulsion procedures should not be initiated in such proceedings at all.

¹ Section 2 Act No. 326/1999 Coll., Act on the Residence of Foreigners in the Czech Republic.





Moreover, **police treatment of individuals entering the Czech Republic irregularly over land borders with Slovakia deteriorated** with the increasing numbers of individuals, mainly nationals of Syria, Turkey and Afghanistan but also Iraq, Lebanon or Egypt, transiting through Czechia on this route in 2022. According to the Foreign Police, about **30.000 foreigners entered Czechia irregularly or were found to be staying irregularly** in 2022. This presents an **increase by 160 %** compared to 2021. About 75 % of these people were, according to the police, only transiting through Czechia.²

The Czech government reacted by reinstalling police controls at the border with Slovakia in September 2022, these continue being prolonged until today. Majority of these individuals continued being detained, often on questionable grounds (Dublin to countries with problematic reception conditions for vulnerable groups, readmissions to Slovakia or Serbia which in practice almost never took place, s. below). In some cases, these individuals reported mistreatment by the police officer. In one case, **a woman was body-searched by a male police officer and requested to remove her hijab**. In another case, **a group of Syrian nationals was brought to a separate room**, following a verbal conflict with the police, and **was asked to do squats for several minutes**. Moreover, the large-scale police operations at the border between Czechia and Slovakia endangered the safety of the refugees and migrants taking this route. The large police present resulted in smugglers engaging in more dangerous practices, resulting in at least one car accident with heavy injuries requiring hospitalization. In one case the police reportedly fired warning shots to stop the smugglers. Iniciativa Hlavák (a volunteer-led initiative providing humanitarian support at the train station) reported cases of potential push-backs at the border between Czechia and Germany, including push-backs of minors.

Case study: Minors returned at the border and separated from accompanying adults; adults with health complications asked to walk back to Prague

In October 2022, OPU was alerted by Iniciativa Hlavák on the case of a group of Syrian nationals, including three minors who were allegedly separated from unrelated, but accompanying adults and returned at the border between Czech Republic and Germany in an action of presumably both, the Czech and the German police.

The whole group traveled by car with the help of a smuggler to the German border. At the border, they all were detained by a local police patrol, all of their phones were confiscated. The police bought a ticket to Prague for the minors, who were then sent back with the train without their phones and without the adults who were previously accompanying them. It appears the police did not contact any child protection authorities, did not attempt to establish what was the relationship between the adults and the minors and did not take any steps towards establishing how the minors would wish for the situation to be resolved. When the minors returned to Prague, they stressed they wished to wait for the adults with whom they were traveling together. Iniciativa Hlavák together with OPU alerted the child protection authorities about their case. The minors were subsequently placed in adequate accommodation and provided with the required support.

² iDnes.cz, Do Česka loni nezákonně přišlo 30 tisíc lidí. To je nárůst o 160 procent, 23. 1. 2023, dostupné na: https://www.idnes.cz/zpravy/domaci/migranti-cizinecka-policie-ukrajina-valka-uprchlici-bilance.A230123_093933_domaci_remy.





The group involving the adults then tried to cross the border to Germany on foot and traveled about 50 km on foot along the German territory, sleeping at night in the woods. However, they were subsequently returned by a German police patrol back to Czech territory on the basis of an accelerated readmission procedure. They had no financial resources and first asked the German police for food and water. This request was refused and they were handed over to the Czech police. Again, they demanded food or water. The police provided them with water but no food. They reported that, while traveling through both Czech and German Czech and German territory, they had with them their last remaining cash of 50 CZK and 5 EUR, with which they bought milk and juice for one of them who was injured. As they had no means to travel back to Prague, they asked the police to buy them a train ticket, drive them or order a taxi. Again, the police refused them any assistance with the journey despite one person's apparent health complications. The group then set off in the direction of Prague on foot, spending the night outdoors, with no means of basic refreshment. They walked 70 km by foot and at a train station in western Bohemia, they asked someone to buy them a ticket to Prague, because they were exhausted and could not walk any further. At the same time, they did not have a mobile phone to ask for help from Czech volunteers or relatives or friends in Germany. Volunteers from Iniciativa Hlavák then found this group sleeping rough in the park in front of the Prague main station. It is established that one of the men has been in a car accident in North Macedonia, has a fractured jaw which has been fixed with steel elements, cannot open his mouth and can only take liquid food through a small opening in the right side of his mouth. The left cheek is swollen and numb. He is still in severe pain and cannot almost get up let alone walk. This is the first time the group is provided with medical assistance, food and emergency shelter.

Moreover, **members of opposition from Russia and Belarus may face increased barriers in accessing the territory** as of last year. Following the beginning of the war against Ukraine, the government has decided to stop issuing visas to nationals of Russia and Belarus, with a few exceptions, such as family reunification. Members of the opposition or other individuals who might be at risk of persecution, may thus be lacking legal means to reach the territory. In practice, they would often procure Schengen visas from other EU countries in order to facilitate their travel. However, in case they subsequently apply for asylum, this automatically subjects them to Dublin proceedings.

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

By the end of 2021, the **Mol decided to change the funding structure for free legal aid to asylum seekers and detainees**. Previously, this counseling was provided by NGOs and was covered through funding from the EU AMIF fund which the Mol was redistributing. This funding scheme was set to expire by 2022, with the grant covering legal aid to asylum seekers expiring by the end of April and another grant covering legal aid to detainees coming to a close by October 2022. Hereafter, the Mol decided to fund these activities from the national budget, citing the delayed AMIF Regulation for the 2021-2027 programming period as the key reason. That despite the fact that a call for requests for additional funding has been launched by the EU





in March 2022.³ And despite the fact that there were funds left over from the programming period of the fund, which ended in 2020. Both of these could have been used to cover this gap.

Consequently, the **Mol published a call for proposals for service providers in March 2022, with NGOs excluded from responding to the call and only attorney offices allowed to apply.**⁴ Following the call, the Mol selected the Volopich, Tomšíček a spol. attorney office as the service provider for the period following April 2022, respectively October 2022.⁵ That despite the fact that this attorney office did not have any experience in foreigners' and asylum law so far⁶ and had a somewhat dubious reputation from the past.⁷ Several newspapers reported about the change, pointing out that the new system will be more expensive and is likely to be of lesser quality.⁸

In the few cases that OPU could follow after this change had been implemented, it observed that the lawsuits prepared by the attorney were typically enormously short (1-2 pages). Typically, the attorney would repeat the personal history of the client, state they do not agree with the decision and request the court to assign the client a legal representative paid by the court. This newly assigned attorney would then have to supplement the lawsuit with additional argumentation. Notwithstanding the fact such a system is even more costly for the national budget, it can also endanger the chances of asylum seekers and detainees in succeeding in the relevant proceedings. Per the Czech Administrative Procedure Code, *all* the relevant points of appeal have to be included in the original submission.⁹ After the time-limit for bringing the matter

³ https://home-affairs.ec.europa.eu/system/files/2022-03/Call%20document%20%E2%80%93%20corrigendum_en.pdf

⁴ The call for tenders for the legal assistance to asylum seekers as of May 2022 including the relevant documentation: <https://nen.nipez.cz/en/verejne-zakazky/detail-zakazky/N006-22-V00004433>.

⁵ Contracts the Mol concluded with the attorney office: <https://smlouvy.gov.cz/smlouva/20602391>, <https://smlouvy.gov.cz/smlouva/20603011>.

⁶ S. i. e. official registry of this attorney office in the registry of the Czech Bar Association: <https://vyhledavac.cak.cz/Company/Details/69b7a5f7-5223-e711-80d5-00155d040b0c> and the website of this attorney office: <https://www.akvt.cz/cz/sekce/pro-obcany-2/>.

⁷ S. i. e. Czech TV, Nejvíce dětí v exekuci je v Plzni. Dopravní podnik dluhy přeprodoval do daňového ráje [Most children in foreclosure are in Pilsen. The transport company was selling debts to tax havens], 8. 4. 2019, available at: <https://ct24.ceskatelevize.cz/regiony/2781638-nejvice-deti-v-exekuci-je-v-plzni-dopravni-podnik-dluhy-preprodaval-do-danoveho-raje>.

⁸ Marek Pokorný, Místo osvědčených expertů dražší advokáti. Vnitro mění způsob pomoci uprchlíkům, [Instead of proven experts, more expensive attorney. The Interior Ministry is changing legal support to asylum seekers], in Hospodářské noviny, 25. 3. 2022, available at https://archiv.hn.cz/c1-67049000-misto-osvedceny-expertu-drazsi-advokati-vnitro-meni-zpusob-pomoci-uprchlikum-kteri-zadaji-azyly?fbclid=IwAR1612PJ9FRH7CQgc1Bg_SAQQKUj_fkQNdePTdB2tJodTyRGito0IM5c1U. František Trojan, Už to asi nevyhrájeme. Na ministerstvu vnitra končí Organizace pro pomoc uprchlíkům [I don't think we're gonna win this anymore. The Organisation for Aid to Refugees is closing down at the Ministry of Interior], 30. 3. 2022, available at: <https://www.respekt.cz/agenda/uz-to-asi-nevyhrajeme-na-ministerstvu-vnitra-skonci-organizace-pro-pomoc-uprchlikum>. Česká justice, Vnitro končí s Organizací pro pomoc uprchlíkům, místo ní najme advokáty [The Ministry of Interior is ending its relationship with the Organisation for Aid to Refugees; it will hire attorneys instead], 10. 4. 2022, available at: <https://www.ceska-justice.cz/2022/04/vnitro-konci-s-organizaci-pro-pomoc-uprchlikum-misto-ni-najme-advokaty/>.

⁹ Section 71 (1) lit. a) and 71 (2) Law no. 150/2002 Coll., Administrative Procedure Code.





to court expires, it is only possible to provide additional argumentation on the points of appeal already included in the original submission but not to add new ones. Accordingly, it is crucial that the original submission includes, at least in short form, all of the relevant points of appeal. Moreover, following the end of provision of legal aid in detention facilities by OPU, several of the clients kept turning to OPU by post and phone, citing lack of trust towards the new legal aid providers as the main reason. Accordingly, **we believe that under the new system, the right to good quality legal representation and the right to have one's case duly reviewed by a court are not guaranteed.**

At present, the MoI is claiming it will reopen the calls for the provision of legal assistance to NGOs in 2023, when the budget for the new programming period is definitely approved. However, the present gap has already had severe damage on NGOs providing such assistance and in particular OPU, since some of the most experienced employees have left the organization by the beginning of 2022 due to the ongoing financial insecurities. Paradoxically, this change happened just before the outbreak of the war against Ukraine, at a time when experienced employees would have been needed, thus putting the organization's stability at risk.

Lastly, following the change in the funding, OPU has strived to access new sources of funding which would enable us to provide additional assistance to the most vulnerable asylum seekers and detainees. Naturally, following Russia's invasion of Ukraine, a number of new donors appeared ready to fund work with refugees. However, while it is understandable that the majority of these donors focus at present on the refugees fleeing the war of aggression against Ukraine, it has become an ongoing challenge for OPU to secure funding also for other groups of refugees and migrants who might be equally, if not more, in need of assistance. Moreover, even in cases where OPU has been successful in ensuring additional funding, in particular from private donors, **the authorities created additional bureaucratic obstacles for OPU employees to access the relevant facilities.** This is in particular the case for detention facilities. Whereas in the past OPU could come regularly to these facilities on specific counseling days and was provided a long-term entry permit and access to an office equipped with computers and printers for that purpose, as present, the it can only come visit persons who expressly requests a visit by OPU or who OPU already represents on the basis of a power of representation. Such visits would have to take place only in the visitors' room where no computer, printers or other equipment are available.

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

The provision of interpretation services **remained questionable.** The interpreters translating the interviews continued to have no obligation to undergo special training to work with asylum seekers and vulnerable persons. Moreover, with The Czech migrant population being comparatively small, there continues to be only a very small pool of qualified interpreters which the authorities can rely on. It has been an ongoing challenge for the authorities to find suitable interpreters especially for some of the rare languages. It has been an ever bigger challenge to





find interpreters who would have sufficient sensitivity towards specific issues (gender-based violence claims, LGBTI claims) or can be reasonably expected to be impartial (i. e. by not being members of a specific ethnic group in case of inter-ethnic violence and so on).

In terms of asylum interviews, we noted that in some cases, the interpreters tended to summarize the testimonies instead of providing actual word by word interpretation. In other cases, the asylum seekers and our own employees have experienced the interpreters as adversary. In one case, an OPU employee complained of poor interpretation during an interview and was told by the interpreter to “keep her mouth shut”. Some asylum seekers have also expressed concern the interpreters might be in touch with or cooperating with embassies with their countries of origin; this was especially the case for asylum seekers from Iran.

These challenges were further exacerbated in proceedings with short deadlines, such as, for example, in detention proceedings, where the Foreign Police has to issue a detention warrant within 48 hours. We noted on several occasions that Kurds or other minority groups from Turkey who were intercepted by the Foreign Police were provided with Turkish interpreters who fully misrepresented their claims. In another case, a woman from Iraq who was a victim of gross domestic violence has been interviewed by a male police officer together with a male interpreter.

Case study: Interpreter threatened an asylum seeker during the asylum interview

An asylum seeker from Sri Lanka was waiting for his asylum interview for 18 months, as there was no available interpreter from Sinhalese to Czech. The Mol didn't take any measure to make the interview possible, except suggesting the applicant to do the interview in English, which he wasn't capable of due to his poor knowledge of English at that time. After 1,5 years of waiting, the Mol engaged a Sinhalese man living in Prague, a professional cook, to interpret. The interview was interpreted from Sinhalese to English and then to Czech. The interpretation was very poor, which was objected to by all the participants. At the end of the interview the interpreter intimidated the applicant in Sinhalese and threatened him that he would carry out the information he gained during the interview if the applicant wouldn't stop his political activities. The applicant was seriously scared, he reported the threats with the help of OPU to the police, but the police stopped the case for lack of evidence. On the basis of our complaint, the Mol stopped the cooperation with this interpreter but didn't take any further measures, stating that the interpreter signed the obligation to maintain confidentiality. Later the Mol found another, also non-professional interpreter, with whom the interview was successfully finished. The applicant is still waiting for the decision on international protection, exhausted after almost two years of waiting and scared after this experience.

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

Problematic practices in the treatment of asylum seekers under Dublin procedure continued. Under Czech law, once the decision on a person's Dublin transfer becomes final, this person





loses their status of asylum seeker under the Asylum Act. From this moment on, these individuals are issued merely with an exit visa under Section 85b (1) Asylum Act and lose all their rights as asylum seekers, including the right to public health insurance and the right to be accommodated in a reception centre. As the case study below shows, this is especially problematic for vulnerable groups.

Case study: Family with severely disabled son excluded from public health insurance while awaiting Dublin transfer

In January 2023 OPU assisted a family from Russia with a disabled son. The family has five members: parents and three sons. Two of the sons have been living and studying in the Czech Republic already for 5-6 years. The third son (30 years old) is physically disabled with the highest degree of disability. He is in a wheelchair, not able to communicate or handle daily tasks and also has epilepsy. The parents and their disabled son have left Russia in summer of 2022 due to their disagreement with Russian politics. Because the Czech Republic was at the time not issuing visas for Russian citizens, the family obtained a Schengen visa for Italy and used it to travel to the Czech Republic, where they applied for asylum. The proceedings relating to their application were stopped as the Mol found the country responsible to decide about their asylum claim was Italy. With the support of a lawyer they have appealed the decisions with request for suspensive effect of the appeals. The court denied this request. From that moment on, the family lost their status as asylum seekers in Czechia and also lost their access to public health insurance. This situation proved to be especially challenging in the case of the disabled son, as he needs treatment on a regular basis and f. e. was running out of medication for epilepsy. The only way for him to get insured was through commercial insurance. However, due to his disability, such would have been either extremely expensive or the insurance companies would refuse to insure him at all. Moreover, due to the son's disability, the family is unable to travel to Italy on a commercial flight and would only be able to make the transfer with their own car which has the necessary adjustments. The Mol is at present in the process of obtaining a laissez-passer visa for the family. The family may thus remain in this situation for protracted periods of time.

Furthermore, the use of detention in Dublin cases continued to be widespread (s. below on detention).

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

For border procedures s. point 1. The issue of insufficient procedural guarantees in the border procedure remains. There is still no option to appeal to the Supreme Administrative Court in cases of applications filed at the Prague International This is particularly problematic as that is our only external border, often applications filed there are well-founded and the quality of the first instance decisions is very low.





6. Reception of applicants for international protection (including information on reception capacities – increase/decrease/stable, material reception conditions – housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)

Asylum seekers continued to receive insufficient support and often ended up living in poverty. The situation is worsened by the fact that the asylum proceedings last unreasonably long - often years.¹⁰ During the asylum proceedings, asylum-seekers live in uncertainty about their future. **With all of the reception facilities located in remote areas, asylum seekers often cannot access most of the services facilitating their integration.** This often results in the loss of hope, inability to integrate in the host society and the loss of ties with the home country (which makes it impossible to return in case of a negative decision in the asylum procedure).

Asylum seekers who cannot afford their own accommodation have a right to live in one of the state funded accommodation centres. All these centres are residential institutions with collective housing where it is extremely hard to lead a normal family life, in particular on a long-term basis. Families are accommodated in rooms, sometimes with their own sanitary facilities but many times with sanitary facilities common for the entire corridor. Not all the centres offer possibilities for cooking and in some centres, meals are provided centrally which strengthens the institutional character of these centres.

The centres are guarded by a private security company and have special rules (e.g., for washing clothes, language classes, legal aid) that secure co-habitation of asylum-seekers from different cultures. The centres are not designated for the families with children only, which results in children being witnesses of undesirable behaviour such as fights, alcohol and drug abuse, police controls and so on. In some cases, asylum seekers reported verbal abuse and harassment from other groups of asylum seekers which was not adequately addressed by the management of the reception centre. In some cases, applicants raised concerns as to the hygienic conditions and their safety in the Havířov reception centre.

Moreover, **applicants continued being moved from one reception centre to another only with a short prior notice.** For many, this meant increased stress as their newly rebuilt social ties were being yet again broken. Moreover, the frequent transfers also hindered their integration into Czech society, as they would often mean they had to look for new employment, new health care providers, new schools for their children and so on.

Moreover, in 2022, the **challenges in access to housing of asylum seekers in the final stage of their asylum process continued.** Housing for asylum seekers is generally guaranteed in accommodation centres during the first and second instance of the asylum proceedings. At the final stage of the asylum proceedings (before the Supreme Administrative Court), asylum seekers have no longer a right to housing in the accommodation camps, regardless of whether

¹⁰ Section 27(1-3), Act No. 325/1999 Coll., Asylum Act provides for 6 months' time limit to issue a decision in asylum proceedings. This time-limit may be prolonged by additional 9 months in complicated cases. There are no official statistics on delays in asylum proceedings, which are, however, notoriously known. In OPU's experience asylum seekers spend on average 2-5 years in the procedure.





or not they have the possibility to ensure their own housing. This is very problematic especially for vulnerable asylum seekers (families with small children, single mothers, persons with disabilities) who have limited possibility to earn a living and therefore very limited possibility to find and fund their own housing. The law allows the authorities to allow in exceptional cases to provide housing in the reception centre. In the past, this exception was used more or less automatically for all asylum seekers in the final stage of their asylum claims mainly due to free capacities of accommodation camps. However, in 2020 the situation has changed and almost no asylum seeker is provided accommodation during the final instance of the proceedings since. Even in the most urgent cases (families or single parents with kids), the housing is provided only for a couple of days after the decision in the second instance is taken. After that, the asylum seeker has to leave the accommodation camps and find a place to live elsewhere. This may be very problematic, especially in cases where the asylum proceedings were dragging for years or when the persons concerned are given very short notice to find their own housing.

Many asylum seekers and in particular asylum-seeking families with children also face serious problems in the **access to medical care** despite having full health insurance and being in theory entitled to the same medical care as nationals. There are no medical services in the accommodation centres and the asylum-seekers must seek medical care in the nearest hospitals, practitioners, or specialists. Not all doctors in the vicinity of the accommodation centres are willing to accept patients from among asylum-seekers (often due language barriers, cultural or other prejudices, or simply insufficient capacity). Finding dental care, which is on top of that not fully covered by the public health insurance, is i. e. particularly challenging. Asylum seekers and in particular families whose children are often sick thus spend their scarce financial resources on travel expenses to reach medical care for their children. This is also the case for asylum seekers who need specialised services, as result of their persecution in the country of origin, including psychological counselling or psychiatric services.

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

All in all, asylum seekers face numerous obstacles in the enjoyment of other social and economic rights and are often discriminated against in accessing these rights. Due to the nature of their uncertain legal status, asylum seekers have reported they find it hard to rent apartments or find employment. The remedies against discrimination are hardly accessible (due to language barrier and costs of litigation) and if pursued, they often prove ineffective (due to length of the proceeding and/or procedural obstacles such as burden of proof, limitation periods, etc.).

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





Immigration detention **continued to be used as a routine tool of migration control** in the Czech Republic. The authorities continued to detain more or less automatically all individuals who entered the country irregularly, with the exception of Syrian nationals. In majority cases, detention was not used as a measure of last resort and was based on dubious grounds. Vulnerable groups such as families with children, unaccompanied minors, victims of domestic violence, victims of ill-treatment in their countries of origin continued to be detained due to the continuing lack of vulnerability assessment.

The three immigration detention centres (Bělá-Jezová, Bálková, Vyšní Lhoty) continued to operate, together with the detention facility in the Prague airport transit zone. The regime of these facilities continued to be the same with a **tendency towards deterioration especially by the end of 2022**. By the end of 2022 and beginning of 2023, when OPU lost access to these facilities due to the changes in the funding structures for legal aid, the detainees kept turning to Iniciativa Hlavák with requests for aid. They often complained of poor quality of food, poor hygienic conditions and poor access to health care. There were reports about increasing suicidal tendencies among the detainees.

We maintain that these detention facilities have a prison-like security regime (fences, uniform police controls, CCTV monitoring, personal searches, visiting hours, specific daily regime, withdrawal of personal items including phones, limited communication). This is particularly the case for Bálková and Vyšní Lhoty which was also noted in the 2019 Schengen evaluation.¹¹ No improvement in making the conditions less prison-like has been done. Moreover, the problematic practice of asking detainees to pay for their detention an equivalent of 10 EUR per day per person continued. The detainees are not requested to pay only if they are released based on a judgment annulling their detention. However, in a situation where their detention turns out to be unlawful by a decision of the Supreme Administrative Court, which is typically issued months after they have been released, there is no mechanism for returning them these funds. The Czech state is thus unlawfully enriching itself on the costs of these migrants and refugees.

On paper, the detention followed different purposes. In some cases, individuals were detained for their **alleged readmissions to Slovakia or even Serbia**. However, it was widely known that such readmissions would in practice never take place. In some cases, the Foreign Police even informed these detainees that they would be detained for about two weeks and hereafter, they would be released. This practice was especially used **against Syrian nationals** who started transiting through the Czech Republic in higher numbers since spring. The practice of the Foreign Police changed in respect of this several times in the course of the year. While by the beginning of spring, these nationals were not detained, this practice suddenly changed in summer, resulting in quick overcrowding of the detention facilities. Seeing that the detention centers have come to the limits of their capacities, this practice was again changed by the beginning of autumn and the police stopped detaining this group. In our opinion, this shows that detention is more often than not motivated by political reasons.

¹¹ <https://data.consilium.europa.eu/doc/document/ST-9210-2020-INIT/en/pdf>.





Dublin detention continued to be widespread. In practice, if a person was found irregularly on the Czech territory and the police found that they have claimed asylum in another EU MS, this person was automatically detained for the purpose of the Dublin transfer. The assessment of the serious risk of absconding as per Article 28 of the Dublin Regulation continued to be superficial and there were no available alternatives to the detention for this group of asylum seekers. Detention was used even in situations where these asylum seekers actually agreed to their transfer. Moreover, **these asylum seekers continued to be not considered as having the status of asylum seekers under the Czech legislation.** This practice is contrary to CJEU jurisprudence and has several repercussions for the position of these asylum seekers. On one hand, these individuals are precluded from making another asylum claim while in detention. On the other hand, since they are not considered asylum seekers, they are detained within the ambit of the Foreigners' Law. This means they cannot profit from the limitations placed on the detention of vulnerable asylum seekers under the Asylum Law. Under the Foreigners' Law, there is no obligation to consider their vulnerability by law. Lastly, the Czech authorities refused to house this group in the reception centres for asylum seekers, which could have otherwise been used as an alternative to their detention.

As a result, in several cases, families with children have been detained throughout 2022 for the purpose of their Dublin transfer to countries like Roumania, Bulgaria or even Greece. In these decisions, the Foreign Police took no regard to the fact that the domestic courts (and courts in other EU MS) have halted such transfers in several cases due to the unsatisfactory reception conditions in these countries in the past. In another case, a young man from Russia who was about to be transferred to France was also detained. That despite the fact that he agreed to this transfer, followed the instructions of the authorities on how to proceed and had a regular place of residence in Czechia where the authorities could contact him. Hence he was at no point at risk of absconding. His detention was later found unlawful by a domestic court.¹²

Due to the overcrowdedness of the detention centres and lack of quality interpretation, **in some cases the detainees missed the 7 days time-limit for applying for asylum while detained or the 10-days time-limit to appeal their removal decisions.** This has had irreversible consequences for their case.

However, even in the cases where these individuals managed to apply for international protection after being detained for irregular entry on the basis of the Foreigners' Act, they continued to be re-detained again as asylum seekers on the basis of a new decision issued by Mol on the basis of the Asylum Act. Again here **the practice of re-detaining asylum seekers appeared to be more or less automatic and the decisions were based primarily on the fact that these asylum seekers entered Czechia irregularly.** In most of these cases, the Mol claimed there were reasonable grounds for believing that the application for international protection was made solely with a view to avoid their expulsion. That despite the fact that these were in many cases *prima facie* well-founded applications. Furthermore, alternatives to detention for asylum-seekers envisaged in the legislation are not used in practice. For years, we have not encountered a case where an alternative to detention would be effectively ordered.

¹² Prague City Court, judgement ref. no. 2 A 1/2023 – 33.





Moreover, the Mol continued the problematic practice of **issuing the detention decision immediately for the maximum permissible duration of 120 days**. In fact, OPU has not encountered a single case where detention would be issued for a shorter period of time. This has had important implications for the detainees' right to remedy, as within the four months of their detention, they were only provided with one single chance to challenge their detention in court. Such practice is particularly problematic for vulnerable groups. Since there is no proper vulnerability assessment at the beginning of the procedure, some vulnerabilities may become known throughout the detention or may significantly worsen as the detention continues. However, the individual has only one chance at initiating a court review at the beginning of the procedure (the appeal has to be submitted within 30 days after receiving the detention decision). Accordingly, in such cases the individuals have no effective means of initiating a court review of their detention when their situation worsens. This is even more problematic as contrary to recommendations resulting, i.e. from the 2019 Schengen evaluation, Czechia does not have a mechanism for ex-officio review of detention, not even in circumstances of prolonged detention periods. This makes the need for good quality legal counseling in detention (s. above) even more pressing.

Case study: Family of four including pregnant woman and two minors separated from male relative

In autumn 2022, OPU assisted a family of four, consisting of two minors and two adults, one of whom was pregnant. The family was fleeing political persecution in Turkey and were placed together in the Bělá-Jezová detention facility on the basis of a police decision relating to the two adults. This decision was mentioning the presence of the two minors and noted that these would be “accommodated” together with the adults in the detention center within the meaning of the Foreigners’ Act. Accordingly, the detention decision relating to the adults was also a de facto decision on the detention of the two minors.

Once in the detention, the adults attempted to apply for asylum for themselves, as well as the minors who were their relatives and whom they were accompanying. However, the Mol only registered the asylum applications of the two adult applicants, yet not the one of the minors, claiming it lacked the local jurisdiction to do so. According to the Mol unit in Bělá-Jezová detention center, the asylum application of the minors could only be registered in Zastávka reception centre upon their release from detention. Considering that the adults were now asylum seekers, the Mol subsequently issued new detention decisions for the two adults under the Asylum Act. In doing so, it fully ignored the presence of the minors.

The family challenged these decisions in court, claiming that they should have been regarded as a family and hence a vulnerable group within the meaning of the Asylum Act. As such, they could not be detained automatically but the Mol would have to prove they have broken their obligations under an alternative to detention. Yet in their case, no such alternative was applied. The Mol responded that their distant family ties (brother-sister, respectively cousins) do not classify them as family within the meaning of the Asylum Act. This view was shared by the court. The court then, seeing that one of the adults is pregnant, considered her as fulfilling the criteria of vulnerability, and decided to annul the decision on her detention. It stated, however, that the minors could not challenge their detention with the presented legal action since the two detention decisions related only to the adult family members and not to them. The court noted, that it was unclear what was the basis of the detention for the minors, since the original police





decisions issued under the Foreigners' Act, which were explicitly mentioning them, ceased to exist ex lege when the decisions on detaining the adult family members on the basis of the Asylum Act were issued. The court hence concluded the minors must have been staying in the detention centre voluntarily. Should this not be the case, they were recommended to place a lawsuit within the scope of action for protection against unlawful interference.

As a result, the pregnant woman was transferred to the reception centre, leaving other family members behind. Being separated from the father of her child caused her great anxiety. The two minors were later also released. However, since they were not officially registered as asylum seekers, they had to organize their own transfer to the reception facility. The adult male was released following the maximum of 120 days of detention. The legal proceedings in this case are still pending in front of the Supreme Administrative Court.

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

Procedures in the first instances remained of low quality and the process has not changed despite numerous recommendations by various institutions. Determination of vulnerability is not assessed and interviews with asylum seekers are often led with the intention to find irregularities in statements. In the case of some asylum seekers, there are more interviews conducted with a significant interval between them. These interviews are compared in detail with the purpose to find differences (e.g., exact dates, building numbers, etc.). In such a case the asylum seeker is considered untrustworthy.

The Ministry is also assessing the evidence with an aim to dismiss the asylum seeker's applications as is only using parts of COI reports which are supporting the conclusions of why to not grant international protection with a disregard to information that supports asylum seeker claims.

In most cases, procedures at the first instance are led with the intention to find a reason why not to grant international protection. The quality of the first-instance decisions can be demonstrated by the number of cases that were referred back to the Ministry by the courts. According to the 2022 annual statistical overview on international protection in Czechia¹³, courts have issued 561 decisions in proceedings (with suspensive effect) on appeals against the first instance decision in total – from that 225 cases were referred back to the Ministry.

We also noted a problematic practice when it came to assessing asylum application of Russian nationals. Although normally, the Mol would make full use of the statutory deadlines to issue a first instance decision (1,5 years in total), in several cases of Russian nationals applying for asylum in the aftermath of the war against Ukraine, the procedure was extremely quick, with a first instance decision issued within a matter of a couple of weeks. We noted at least one case

¹³ Ministry of Interior – International protection in the Czech Republic: annual statistical overview 2022. Available at: <https://www.mvcr.cz/clanek/souhrnna-zprava-o-mezinarodni-ochrane-za-rok-2022.aspx>.





where a decision was issued two weeks after the individual applied. In these cases, several steps in the procedure (provision of basic data for the application, the interview, familiarizing the asylum seeker with the COI the Mol will use to issue the decision) would typically take place on the same day. This raises questions as to the objectivity of such decisions and the overall fairness of the procedure.

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

The second instance – the judicial review procedure – continued to be of **variable quality**. Some regional courts and judges dedicated enough attention to the asylum cases, went into great levels of detail on each case and clearly developed expertise in the field. Some courts and some judges appeared unprepared at the hearings and did not familiarize themselves with the basic principles of asylum law. Furthermore, there continued to be no tribunals specializing in asylum cases only, resulting in a lack of specialization in the field.

However, considering the significant qualitative gaps in the asylum procedure, it cannot be overlooked that the appellate **courts often had to do the work which ought to be done by the Mol**. This includes gathering proofs, looking carefully into COI or hearing witness testimonies the Mol refused to collect. Moreover, the courts continued to suffer from a completely inadequate time- and staff- allocation for asylum cases, even though these cases often impact the lives of persons at risk of persecution.¹⁴

Case study: An asylum seeker from Russia who provided Mol with several documents and videos got the evidence assessed for the first time by a court

Since 2020, OPU has been supporting an asylum seeker from Russia, a political activist who was threatened and arrested by the police because of participation in opposition gatherings. He filed an application for international protection with his family in January 2020. First, the Mol issued a Dublin decision which the court referred back to Mol. Then the Mol decided to examine his application for international protection because family members who were granted asylum status were living in Czechia.

As the Mol stepped towards the examination of the application for international protection, the client submitted evidence, most importantly videos proving he was arrested by the police in Russia. The Mol did not assess the videos during the first instance procedure. It concluded the videos were untrustworthy as it was not possible to determine who is the person on the recording, even though it was easy to recognize a client's face and to hear the police say his name clearly.

During the court hearing the video was played and analysed. The court came to the conclusion that Mol erred in not assessing the video material. In addition, the court ruled that Mol was

¹⁴ At the expert seminar on asylum law organized by the Czech Ombudsperson's office in the fall of 2021, one of the judges noted the time they are allocated to asylum cases should as a matter of the court schedule compared to cases on traffic misdemeanors.





trying to find inaccuracies in the client's statement in order to claim he was untrustworthy, and was using part of COI only to prove Mol's conclusions.¹⁵

Nonetheless, despite these challenges, the average length of proceedings at the second instance continued to be one year. Some courts also took relatively quick action in response to the war against Ukraine. In some cases, the courts would prioritize cases of Ukrainian citizens, where the Mol's decision would be automatically annulled and sent back for new assessment with regard to the change of circumstances. Moreover, as noted above, in about half of the cases, the Mol decisions have been annulled by the domestic courts. These statistics, however, may have also been impacted by the war against Ukraine.

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

The country of origin information (COI) that was used continued to be poor in 2022 as well. In many cases, the Mol was not using precise and up-to-date COI which was also often the reason why its decision were being annulled by courts, thus further prolonging the asylum procedure.

While the Mol sometimes enlists numerous resources, in reality only one or two resources are used in the actual reasoning of the decision. Typically, one of the key sources on which the Mol would base its decisions is **information procured from the Ministry of Foreign Affairs (MFA)** about the situation of unsuccessful asylum seekers returning to their country of origin. However, **these information briefs do not meet the required standards for COI**. They are not produced by an impartial and independent research entity. Most of the times, these documents do not cite any source for their claims and appear to be based solely on the perception of the embassy workers. In some cases, they even use biased language (such as, saying that in the case of Nigeria, applicants would be typically returning after engaging in "more or less legal activities" in Europe).

Moreover, the COI relied upon is often generic and does not relate to the specificities of the case (i.e., in the case of a victim of serious domestic abuse, only general information about the security situation in the country of origin is considered, or in the case of a member of a specific minority, only general information about the country of origin is used). Even where good quality COI is produced, in some cases, the Mol would rely only on some parts of the COI in the decision-making, typically the ones going to the detriment of the asylum seeker, yet would ignore the parts going to their favor.

Lastly, when presented with the COI at the first stage of the asylum proceedings before a decision is issued, the asylum seekers are poorly informed about the importance of this step and their right to suggest further documents in their support. The Mol also provides enormously short deadlines for providing a reply on the COI collected (regularly 10 days) which makes it in practice impossible to read through the documentation and provide good quality assessment.

¹⁵ Regional Court in Brno, Judgment no. 41 Az 23/2022, 28 November 2022





In practice this means that important evidence or information is often only submitted during the court review.

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

As to our knowledge, there continues to be **no vulnerability screening tool or methodological guidance** for the identification of vulnerable asylum seekers. Often, the authorities fail to identify or recognize the vulnerability of a particular person despite the calls of representatives or NGOs. There also appears to be a lack of understanding of more holistic approaches to vulnerability which would not look at vulnerability characteristic individually but in their interplay and would recognize patterns of multiple or intersecting discrimination. Even where vulnerability is recognized, **it remains unclear what adjustments are taken in practice**, especially in respect of ensuring the individuals can access their rights in the procedure.

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

The State Integration Programme continues to be relatively well organized and generous. However, in practice it comes as **too little too late**. Due to the length of the asylum procedure, most refugees manage to integrate on their own and at the time they finally receive international protection, there is little added value for them in entering the programme.

Moreover, some issues remain a challenge even for those refugees whose claims get recognized quickly and who could hence benefit the most from the programme in particular, access to housing remains problematic with regards to refugees that have been granted international protection. These are temporarily allowed to stay in one of the integration facilities for the maximum period of 18 months. The state-funded integration apartments, however, continue to be located in a segregated locality in Ústí nad Labem. This makes it very challenging for these refugees to find jobs, doctors or kindergartens for their children. Moreover, during this period, the refugees should find private accommodation. Yet property owners continue to be unwilling to rent their properties to refugees and there is a huge discrimination on the housing market. This situation was only exacerbated by the ongoing housing crisis and by the Russian invasion of Ukraine. **In bigger cities, it becomes impossible to find affordable housing or put one's children to school.**

13. Return of former applicants for international protection





The Mol continued to propose amendments to the relevant legislation suggesting to cancel the until now successful scheme of exceptional regularization of certain unsuccessful asylum seekers, specifically families with small children or elderly individuals whose asylum procedure lasted over 4 years. Under certain circumstances, these were able to regularize their stay. Considering how poor the quality of asylum procedures is, and how long the delays are especially in the most vulnerable and well-founded cases, this mechanism provided an important tool to protect people from being returned to their country after experiencing significant delays in the asylum procedure and years lasting legal uncertainty.

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

In May 2022, the Civil Society Programme¹⁶ was introduced. The Programme is focused on Russian and Belorussian citizens – mainly on political activists, human rights defenders, journalists, and those, who are subjected to persecution by authorities based on their exercising their freedom of speech and other special cases of people whose fundamental rights are restricted and limited.

Application to this Programme can be submitted through a guarantor, who forwards it to the Ministry of Foreign Affairs of the Czech Republic. Successful candidates are guaranteed that they will be issued long-term visa or residence permit at Embassies or the Consular Offices of the Czech Republic. Also, close family members can be included in the Programme. The number of applicants was limited to 500. According to our knowledge, this quota was filled by summer.

The Programme is welcomed; however, it appears that each individual's application is assessed on a very strict basis. The Programme is profiled on high-level political activists, journalists, and their families. In practice, it appears that these already have to have pre-existing ties with some Czech NGOs and ideally, the guarantor. It is thus not intended for a wider public, regular opposition members and so on.

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

No relocation programmes active as per our information.

16. National jurisprudence on international protection in 2022 (please include a link to the relevant case law and/or submit cases to the EUAA Case Law Database)

¹⁶ The Civil Society Programme. Ministry of the Foreign Affairs. Available at https://www.mzv.cz/jnp/cz/informace_pro_cizince/aktuality/program_obcanska_spolecnost.html.





The most important jurisprudential development was the **Czech Constitutional Court's decision IV. ÚS 1642/21 of 29. 3. 2022.**¹⁷ This judgment clarifies the possibility of individuals to **challenge a decision which grants them only subsidiary protection in a situation where they believe they qualify for asylum** as a higher form of international protection. It further clarifies the status such individuals hold during the appeals procedure.

In the Czech Republic, when a written decision is issued on the application for international protection, the operative part of the decision, which is a single sentence, states whether the applicant has been granted asylum or subsidiary protection. As subsidiary protection is considered by law a “lower” form of international protection, it can only be granted if the person is not granted asylum. In such a case, the one sentence states that the person is not granted asylum and is granted subsidiary protection.

Typically, if the applicant was granted only subsidiary protection, generally they would not further challenge in court the denial of asylum. This was also because for several years, there was a risk of losing the subsidiary protection status when doing so. Because the operative part of the decision is only one sentence and because the granting (or not) of asylum and granting (or not) of subsidiary protection are interlinked, as one person cannot be a holder of both, the court considered they could not annul only one part of the operative part of the decision but could only annul the entire Mol decision. In view of the lower courts, the operative part of the decision could not be separated into several operative sentences which would be susceptible to review on their own. This resulted in a paradoxical situation where **subsidiary protection holders who tried to claim asylum in court were at risk of losing their subsidiary protection status, in case they were actually successful at court.** Success at court meant that the entire international protection decision was canceled, with the result that the individuals lost their subsidiary protection status and **became again only an applicant for international protection.**

In one of these cases, the Municipal Court in Prague actually ruled in favour of the OPU's client, upholding the claim the person would merit asylum and annulled the entire decision on international protection, as a result of which the foreigner became once again only an applicant for international protection. A cassation appeal was filed against this judgment to the Supreme Administrative Court, which, however, upheld the claim. It considered that its own decision-making practice shows that the decision must be annulled in its entirety and that it is not possible to decide to annul only one part of the decision. OPU, in collaboration with Maroš Matiaško attorney, lodged a constitutional complaint against these decisions with the aim of finally changing this practice.

In March 2022 the Constitutional Court eventually supported the complaint in full, stating that the **inability to challenge a decision on international protection only in the asylum part had unconstitutional consequences and violated the right to effective remedy.** It noted that the doctrine on the “inseparability” of international protection decisions was unconstitutional. It also stated that challenging a decision in court cannot result in the worsening of one's situation. It

¹⁷ Constitutional Court, IV. ÚS 1642/21, 29. 3. 2022, available at: https://www.usoud.cz/fileadmin/user_upload/Tiskova_mluvci/Publikovane_nalezky/2022/IV._US_1642_21_an.pdf





was hence not acceptable that subsidiary protection holders would be returned back to asylum seeker status following a successful claim at court.

Thus, with this decision, **the Constitutional Court confirmed that anyone who is granted only subsidiary protection can safely defend himself against the refusal to grant them asylum, without their position being impaired by the subsequent court decision.** Subsequently, this decision has been reflected in practice and since then, in several decisions, regional courts have overturned only the decision not to grant asylum in the case of an action against the refusal to grant asylum. These individuals then retain their status as holders of subsidiary protection.

17. Other important developments in 2022

One of the most significant developments impacting our work has been without doubt Russia's war of aggression against Ukraine. While the developments noted above relate primarily to other groups of asylum seekers, we also want to emphasise several remaining challenges in the field of **temporary protection**.

The granting of temporary protection to citizens of Ukraine is accompanied by many problems which are mainly due to the adopted domestic legislation regulating the conditions for granting and withdrawing temporary protection in the Czech Republic (so-called Lex Ukrajina, now in its fourth version).¹⁸

One of the key problems is the **impossibility to obtain temporary protection in the Czech Republic in a situation where a citizen of Ukraine has already applied for or obtained temporary protection in another EU country.** In this case the application is assessed as inadmissible. No formal procedure is initiated. Instead, the MoI employees simply return the application form to this person on the spot. Furthermore, the law provides that the inadmissibility cannot be challenged in court. Moreover, even if the Ukrainian national cancels his/her temporary protection in another country, the administrative authority will see the application submitted in the Temporary Protection Platform (TPP) database and will not grant this person temporary protection. This procedure applies in the Czech Republic even though application of Article 11 of the Temporary Protection Directive has been excluded by the Member States in the accompanying Council implementing decision and even though, for example, the Commission has stated that any citizen of Ukraine who meets the conditions for temporary protection has the right to choose the country in which to reside.

Further problematic are situations where a Ukrainian national obtained **a visa to another country.** If a citizen of Ukraine fulfills the basic conditions for temporary protection, but as of 24 February 2022 had been granted a visa to another country, temporary protection is not granted, as according to the administrative authorities, a citizen of Ukraine can find assistance in the country where he or she was granted a visa. Even if the citizen of Ukraine did not use this visa and was not personally on the territory of the state that issued the visa, but was only on the territory of Ukraine all the time, his application is again assessed as inadmissible. Indeed, the

¹⁸ Law No. 65/2022 Coll., Law on certain measures in connection with the armed conflict on the territory of Ukraine caused by the invasion of the Russian Federation troops.





administrative authorities interpret the concept of “residing in Ukraine” in Article 2(1)(a) of the Council Implementing Decision not in terms of where the citizen of Ukraine was actually present on 24 February 2022, but where he was allowed to reside. Thus, if, for example, a citizen of Ukraine was in possession of a Polish visa on 24 February 2022, but never traveled to Poland on the basis of that visa, and his first journey was from Ukraine to the Czech Republic, they will not be granted temporary protection.

A further challenge is the **automatic termination of temporary protection if the temporary protection holder obtains a visa or residence permit in another country**. In practice, an important number of Ukrainian citizens applied in the past or are applying now for visas to other countries (mainly Canada) but are not aware of the consequences of being granted a visa. Once they are granted a Canadian visa, for example, their temporary protection is revoked by law. This means they do not receive any decision and do not find out about this fact until several months later. This implies they might be in practice without a valid residence permit, a valid work permit or health insurance without knowing it and might be even liable to repay any social security support which they obtained during the time they were no longer temporary protection holders. They can regain the temporary protection if they manage to cancel the visa, however, this proves in practice often challenging as some embassies do not have formal procedures for canceling visas which have not been made use of in practice.

Lastly, it should be noted that **not all persons fleeing Ukraine have had an equal access to protection** in Czechia. In particular, **Roma** fleeing the war against Ukraine faced increased obstacles in submitting their application with the authorities. The authorities argued their application was not admissible as they were, presumably, Hungarian passport holders. However, this turned out to be true in only about 3 % of the cases.¹⁹ Further, this group reportedly faced discrimination in accessing the services which were otherwise available to other Ukrainian refugees.²⁰ Moreover, as the authorities struggled with finding them adequate accommodation, these refugees were often accommodated in segregated areas and often also in former detention facilities.

References and sources

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

¹⁹ Zdeněk Ryšavý, Nafouknutá bublina kolem Romů s maďarskými pasy splaskla. Z více jak 5 tisíc prověřovaných mělo maďarský pas pouze 150 uprchlíků, [The bubble around Romani people with Hungarian passports has burst. Out of more than 5,000 people screened, only 150 refugees had Hungarian passports], Romea.cz, 11. 6. 2022, available at: <https://romea.cz/cz/domaci/nafouknuta-bublina-kolem-romu-s-madarskymi-pasy-splaskla-z-vice-jak-5-tisic-proverovanych-melo-madarskych-pas-pouze-150>.

²⁰ Zdeněk Ryšavý, Ukrajínští Romové prchající z válečného konfliktu čelí diskriminaci a rasismu. "Někteří dobrovolníci odmítají romské rodiny odvážet," uvedl pro ROMEA TV Jaroslav Miko, [Ukrainian Roma fleeing the war conflict face discrimination and racism. "Some volunteers refuse to take Roma families away," Jaroslav Miko told ROMEA TV.], Romea.cz, 3. 3. 2022, available at: <https://romea.cz/cz/domaci/ukrajinsti-romove-prchajici-z-valecneho-konfliktu-celi-diskriminaci-a-rasismu.nekteri-dobrovolnici-odmitaji-romske-rodiny>.





Please note the analysis of the Hungarian Helsinki Committee “*Implementing judgments in the field of asylum and migration on odd days*” to which we have contributed to: <https://helsinki.hu/en/wp-content/uploads/sites/2/2022/11/Implementing-judgments-in-the-field-of-asylum-and-migration-on-odd-days.pdf>.

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

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