

Country factsheet Czech Republic

Based on its 2010 Work Programme, the European Union Agency for Fundamental Rights (FRA) carried out a study on access to justice for asylum seekers. This study illustrates the perspective of asylum seekers on two specific issues relating to the asylum procedure, namely information on the procedure itself and access to remedies against a negative decision.

The FRA interviewed almost 900 asylum seekers throughout the European Union. The information received has been analysed taking into account the relevant national legal provisions and the responses to a questionnaire on information received from national asylum authorities. The research has resulted in two comparative reports, the first on the duty to inform and the second on access to effective remedies.

This factsheet complements these two comparative studies by providing some basic background information, including statistics and relevant domestic legal provisions relating to the issues covered in the two reports.

1. Statistics

Statistics on asylum applications (Total and top 10 nationalities)

2009 Top 10 Nationalities		2008 Top 10 Nationalities	
Total	1,245	Total	1,650
Ukraine	200	Ukraine	320
Kazakhstan	185	Turkey	250
Mongolia	160	Mongolia	195
Turkey	65	Vietnam	110
Vietnam	65	Belarus	80
Stateless	60	Russian Federation	80
Belarus	55	Kazakhstan	75
Russian Federation	55	Nigeria	40
Syrian Arab Republic	45	Georgia	40
Nigeria	40	China (including Hong Kong)	35

Statistics on first instance asylum decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	Subsidiary protection status	Humanitarian ¹	Rejected	Total number of decisions	Total positive decisions	Recognition rate ² %
Total	60	20	20	435	535	100	18.7
Myanmar	20	0	0	0	20	20	100.0
Ukraine	10	0	5	70	85	15	17.6
Afghanistan	5	0	0	5	10	10	100.0
Vietnam	5	0	5	20	25	5	20.0
Russian Federation	0	0	0	15	20	5	25.0

Statistics on final decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	Subsidiary protection status	Humanitarian ¹	Rejected	Total number of decisions	Total positive decisions	Recognition rate ² %
Total	0	0	25	395	420	25	6.0
Ukraine	0	0	5	65	70	5	7.1
Vietnam	0	0	5	20	25	5	20.0
Kosovo	0	0	5	10	15	5	33.3
Kazakhstan	0	0	0	85	85	0	0.0
Mongolia	0	0	0	40	40	0	0.0

Notes: These tables are based on categories used by Eurostat. The way Eurostat presents its data may not necessarily correspond to categories used at national level. This can particularly be the case with statistics provided under 'humanitarian status'. For more detailed understanding of the data, the reader is invited to consult national statistics at: <http://www.mvcr.cz/mvcren/article/statistical-reports-on-international-protection-seekers-and-refugees-323887.aspx?q=Y2hudW09Mg%3d%3d>.

Data has been rounded to the nearest 5. Due to the rounding, the sum of individuals may not necessarily match the given total. 0 means less than 3; n.a. = not available. Kosovo (under United Nations Security Council Regulation 1244).

¹ Covering persons granted authorisation to stay for **humanitarian reasons** under national law by administrative or judicial bodies. It includes persons who are not eligible for international protection as currently defined in the first stage legal instruments but are nonetheless protected against removal under the obligations that are imposed on all Member States by international refugee or human rights instruments or on the basis of principles flowing from such instruments.

² The **recognition rate** corresponds to the proportion of positive first instance or final on appeal decisions out of the total number of decisions in 2009. Positive decisions include the provision of refugee status, subsidiary protection and humanitarian protection (where data is available).

Source: [Eurostat](#), Data extracted on 01 September 2010.

2. Background Information

Asylum act¹

[Act on Asylum \(1999\)](#)

Asylum authorities

First instance authority

[Ministry of the Interior](#)

Second instance authority

Regional Court

3. Duty to inform asylum seekers

The Ministry of the Interior has the duty to provide information in writing on the rights and obligations of an applicant for asylum and on the right to request at any time legal and other assistance to organisations working for the protection of refugees, and to contact the Office of the UNHCR. Such information has to be provided in the applicant's mother tongue or in a language in which s/he is able to communicate. The information has to be provided either at the time of filing an asylum application or not later than 15 days from the date of the request for international protection by an alien (Article 10).

A specific information leaflet on the Dublin II Regulation is handed over to applicants when lodging the asylum application and a specific information leaflet on EURODAC when taking the finger prints.

In August 2010, the Ministry of the Interior provided the following information to the FRA as regards written information materials.

Written information materials	Leaflet on the procedure translated into 37 languages as well as separate leaflets on Dublin II and Eurodac.
Provided when?	Information is personally handed over to each adult applicant in the reception centre or sent by registered mail if the asylum seeker applies out of the reception centre.
Provided by whom?	By the Ministry of the Interior and by the police.
Has an evaluation of information tools been carried out?	No.

¹ The legal information in this factsheets has been updated to reflect the situation on 1 September 2010.

4. Effective Remedy

Type of procedures

Within the admissibility procedure, the Ministry of the Interior examines, *inter alia*, whether it is competent to deal with the application (Dublin procedure); in case of a negative decision it discontinues the procedure and organises the transfer of the applicant to the competent Member State. Subsequent applications are also considered as an admissibility procedure.

In addition to the regular procedure, there is also a procedure for manifestly unfounded applications. Decision rejecting the application as manifestly unfounded includes, for instance, safe country of origin and safe third country decisions have to be taken within thirty days from the date of commencement of the proceedings (Article 16(3)).

A special procedure exists for applications submitted at the airport: the Ministry of the Interior shall take decision within four weeks from the date of the Declaration on International Protection (Article 73).

Duty to state reasons for rejection and procedure to appeal

Pursuant to Article 28 of the Act on Asylum, the Ministry of the Interior has the duty to justify its negative decision on the asylum application. Rejections based on safe third country have to be accompanied by a document notifying the safe third country in its official language that the asylum application has not been examined in substance.

In addition to the verdict and the reasoning, the decision has to contain the instructions concerning right of appeal, time-limit for lodging an appeal, which court shall decide on the appeal as well as the information on the absence of suspensive effect of the appeal if that is the case (Article 68, [Code of Administrative Procedure](#) - CAP).

Time limits for appeal

There are two different time frames within which a legal remedy against the decisions of the Ministry of the Interior may be lodged with the competent regional court; either 15 days from the date of service of the decision, or 7 days from that date in case of: (i) decisions served to an alien hosted in a detention centre, and (ii) inadmissibility decisions (Article 32(2), Act on Asylum).

Type of procedure	Time limits	Right to remain
General rule	15 days	Automatic suspensive effect.
Manifestly unfounded applications	15 days ²	Automatic suspensive effect (exceptions in footnote 5).
Admissibility procedure	7 days	No suspensive effect unless the regional court decides otherwise in the individual case.
Dublin II	7 days	No suspensive effect unless the Regional court decides otherwise in the individual case.

² Before the judgment of the Constitutional Court no. 9/2010 Coll. came into effect in January 2010, the decisions on manifestly unfounded applications could be appealed against to the regional court within seven days of serving the decision. After the annulment of the provision concerned (Art. 32(2)(a), Act on Asylum), asylum seekers may file an appeal against such decisions within the regular time limit, which is 15 days of serving the decision.

Right to remain in the country during appeal

As a general rule, an appeal against a decision of the Ministry of the Interior has automatic suspensive effect (Article 32(3) Act on Asylum). However, the same provision introduces several exceptions to this general rule. In cases of discontinuation of the procedure (including inadmissible applications; Article 25 Act on Asylum), in two cases when the asylum application is rejected as manifestly unfounded³, and in the Dublin II procedure (Article 32 2.c) and Art 25i) Act on Asylum), the Asylum Act does not provide for suspensive effect and the Code of Administrative Justice applies.

Pursuant to Article 73 of the [Code of Administrative Justice](#) (CAJ), lodging of a complaint does not have suspensive effect unless otherwise provided for by this Act or a special law. However, the court may still decide to award the suspensive effect of the appeal at the appellant's request after hearing the defendant's opinion providing the execution of the decision or other legal consequences of the decision would result in irreparable damage to the appellant, the award of the suspensive effect does not unreasonably affect the acquired rights of third persons and is not contrary to the public interest (Article 73(2), CAJ).

Legal Aid

During the entire course of the proceedings, asylum seekers are entitled to be represented on the basis of a power of attorney (Article 20.2 Asylum Act). According to Article 21 an asylum seeker is entitled to request assistance from a legal entity or natural person engaged in providing legal assistance to refugees. The Ministry of the Interior shall contribute to the payment of costs related to the provision of such assistance at no charge, to a legal entity or natural person who has entered into a written agreement on the provision of legal assistance with the Ministry of the Interior. (Article 21.2)

Within the second instance procedure, the appellant may either obtain legal assistance from advice-providing NGOs⁴ (Article 35 (5) of the [Code of Administrative Justice](#)) or apply for an appointed legal counsellor from the Regional Court (Article 35 (8) CAJ). The court may assign a legal representative to an asylum seeker.

According to the general administrative law, the parties have a right of inspection of their files even if the decision on the merits of their case has become legally effective (Article 45 CAP). This also applies to asylum procedures.

Language assistance

The asylum seeker is entitled to use his/her mother tongue or a language in which s/he is able to communicate during the course of the proceedings. For this purpose the Ministry of the Interior shall provide for an interpreter for the entire course of the first instance procedure.

³ Those two cases concern decisions rejecting the application for asylum as manifestly unfounded on the ground that (i) the applicant arrives from a country, which the Czech Republic considers to be a safe third country or a safe country of origin unless it is proven that in his/her case this country cannot be deemed to be such country, and (ii) the applicant holds more than one citizenship and failed to avail him/herself of the protection of any of the countries of which s/he is a citizen (Art. 16 (1)(d), (e)).

⁴ As an example, an NGO called 'SOZE' (Association of citizens dealing with emigrants) has launched a project on providing free legal and social assistance to asylum seekers placed in asylum facilities on the territory of Morava and Slezsko. The aim of the project is to provide an individual and qualified assistance to asylum seekers by informing them of their rights during the asylum procedure, helping them with preparing official documents, and in reasonable cases by helping them to lodge an appeal in negative decisions on their applications (http://www.soze.cz/?page_id=218).

The asylum seeker is entitled to engage an interpreter of his/her own choice at the applicant's own costs (Article 22 Asylum Act). The right to an interpreter applies similarly in the appeal procedure (Article 18, [Code of Civil Justice](#) in connection with Article 64 CAJ).

Hearing

Generally, appellants lodging legal remedy against a decision of an administrative authority are heard by the competent court (Article 49 in connection with Article 74 CAJ). Under certain circumstances explicitly stated in Article 76 CAJ, the court may however revoke the contested decision without ordering a hearing. In its review, the court proceeds from the facts of the case and the legal situation existing at the time of decision-making by the first instance administrative authority. The court may re-examine or add evidence produced by the administrative authority (Article 77 CAJ).

There are seven regional courts competent to deal with legal remedies in asylum cases, which competence is determined by the registered address of the appellant on the day of lodging the appeal – normally an asylum centre (Article 32(4) Act on Asylum).