

Country Report: Czech Republic

Updated May 2007

1. Statistics

APPLICATIONS

1. *Total number of individual asylum seekers who arrived (with variation in %):*

2005	2006	Variation +/- (%)
4,021	3.016	-25

Source: Ministry of the Interior

2. Breakdown according to the country of origin/nationality: 2006

Nationality	Number of new applications	Asylum granted	Applic. rejected	Obstacle to leave	Subsidiary Protection granted	Application inadmissible	Termination of the asylum procedure	Decisions total
Albania	2	-	-	-	-	-	-	-
Belarus	174	66	13	27	22	14	44	186
Bosna a Hercegovina	3	3	3	-	-	-	-	6
Bulgaria	13	-	13	-	-	-	1	14
Lithuania	3	-	-	-	-	3	-	3
Macedonia	12	-	11	-	-	1	-	12
Moldova	29	1	29	-	-	1	2	33
Germany	1	-	-	-	-	1	-	1
Poland	4	-	-	-	-	4	-	4
Romania	10	-	16	-	-	-	1	17
Russia	171	51	117	1	2	4	40	215
Slovakia	15	-	-	-	-	21	5	26
Serbia	21	2	11	-	-	2	-	15
Serbia and Monte N.(ex)	6	2	7	-	-	-	-	9
Spain	1	-	-	-	-	1	-	1
Ukraine	571	31	562	-	-	17	21	631
Europe	1036	156	782	28	24	69	114	1173
Afghanistan	1	5	-	3	1	-	-	9
Armenia	51	7	50	1	1	2	4	65
Azerbajdzan	3	4	2	-	-	-	-	6
Bangladesh	20	-	13	-	-	-	1	14
China	114	1	112	-	-	8	18	139
Georgia	43	-	34	-	-	7	3	44
India	55	-	80	-	-	-	26	106
Iraq	80	7	10	-	5	5	34	61
Iran	1	-	2	-	-	-	1	3
Izrael	5	-	4	-	-	-	-	4
Jemen	1	-	-	-	-	-	-	-
Jordan	-	-	-	-	-	-	1	1
Kazakhstan	236	31	43	-	-	1	1	76
Kyrgyzstan	85	5	52	-	-	2	1	60
Lebanon	4	-	2	-	-	1	2	5
Mongolia	95	2	94	-	-	1	4	101
Myanmar	1	-	-	-	-	-	-	-

Nepal	4	-	-	-	-	-	-	-
Pakistan	42	4	32	-	-	1	19	56
Palestine	5	-	5	-	-	-	-	5
Sri Lanka	22	2	12	1	-	-	5	20
Syria	20	3	7	-	-	-	6	16
Thailand	3	-	1	-	-	-	-	1
Turkey	66	-	44	3	-	3	15	65
Turkmenistan	2	1	-	-	-	-	-	1
Uzbekistan	25	2	-	8	3	-	5	18
Vietnam	124	-	122	-	-	-	19	141
Asia	1108	74	721	16	10	31	165	1017
Columbia	-	-	1	-	-	-	-	1
Cuba	20	-	-	9	1	-	1	11
America	20	0	1	9	1	0	1	12
Algeria	57	-	54	-	-	1	7	62
Angola	2	-	2	1	-	-	-	3
Egypt	422	-	396	-	-	2	24	422
Etiopia	2	1	-	-	-	-	1	2
Gambia	1	-	-	-	-	-	-	-
Ghana	14	-	9	-	-	1	-	10
Guinea	13	1	11	-	-	-	-	12
Guinea- Bissau	1	-	1	-	-	-	-	1
Kamerun	18	-	13	-	-	-	1	14
Kongo	9	-	4	-	-	1	-	5
Kongo Dem. Rep.	30	2	15	1	-	-	5	23
Liberia	-	-	-	-	-	-	-	-
Libya	2	-	2	-	-	-	-	2
Mali	1	-	1	-	-	-	-	1
Maroko	6	-	6	-	-	-	-	6
Namibia	1	-	-	-	-	1	-	1
Nigeria	96	-	68	-	-	1	6	75
Ivory Coast	9	-	3	-	-	-	3	6
Senegal	10	-	8	-	-	1	1	10
Sierra Leone	11	-	8	-	-	-	-	8
Somalia	20	7	-	1	-	-	4	12
Sudan	15	2	5	2	2	-	3	14
Togo	1	1	1	-	-	-	-	2
Tunisia	8	-	6	-	-	2	1	9
Uganda	2	-	1	-	-	-	-	1
Zimbabwe	-	-	-	-	-	-	-	-
Africa	751	14	614	5	2	10	56	701

not known	1	1	7	-	-	-	-	8
stateless	100	23	70	1	-	1	15	110
Total	3 016	268	2 195	59	37	111	351	3 021

Source – Ministry of Interior, Department for Asylum and Migration Policy

3. Unaccompanied minors (only children under 18) according to the country of origin/nationality:

<i>Unaccompanied Minors – new asylum applications in 2006</i>					
Age	0-14		15-17		Total
Sex	Male	Female	Male	Female	
Armenia	-	-	1	1	2
Bangladesh	-	-	1	-	1
stateless	-	-	7	1	8
China	-	-	8	3	11
Egypt	-	-	10	-	10
Ghana	-	-	3	-	3
Georgia	2	-	-	-	2
India	-	-	6	-	6
Iraq	-	-	1	-	1
Kamerun	-	-	1	1	2
Kazakhstan	-	-	1	2	3
Kongo	-	-	2	1	3
Kongo Dem. Republic	1	-	1	1	3
Lebanon	-	-	1	-	1
Nepal	2	-	-	-	2
Nigeria	-	-	1	-	1
Pakistan	2	2	-	-	4
Russia	-	-	1	-	1
Sierra Leone	-	-	1	-	1
Somalia	-	-	-	1	1
Serbia	-	-	1	-	1
Turkey	-	-	1	-	1
Ukraine	4	6	1	1	12
Vietnam	-	-	1	-	1
Total	11	8	50	12	81

Source – Ministry of Interior, Department for Asylum and Migration Policy

2005	2006	Variation +/- (%)
100	81	- 19

Source: Ministry of Interior, Department for Asylum and Migration Policy

RECOGNITION RATES

4. Total number of applications decided and the statuses accorded:

Statuses	2005		2006	
	Number	%	Number	%
Recognition under Article 12, 13, 14 of the Asylum Act	251	5.74	268	8.87
Protection from deportation according to § 91 of the Asylum Act/14 a) of the Asylum Act (Subsidiary Protection)	79	1,8	96	3,18
Rejections	2636	60,24	2.195	72,66
Total all decisions	4376		3.021	

Source: Ministry of Interior, Department for Asylum and Migration Policy

DEPORTATIONS / REMOVALS

6. Persons returned on third country grounds:

No data available.

7. Deportations of rejected asylum seekers (via air):

No data available

8. Dublin II Convention practice 2006, 2005:

Rok		
Month	2005	2006
January	128	136
February	126	125
March	115	120
April	97	62
May	71	111
June	67	71
July	79	80
August	79	82
September	79	104
October	77	80
November	120	105
December	130	73
Total	1168	1149

Source: Ministry of Interior, Department for Asylum and Migration Policy, more detailed information e.g. focus on nationality, number of requests or transfers is not available

Introduction

Current situation in the country

The number of new applications for asylum further decreased in the year 2006. In 2006, the Czech Republic filed only 3016 new asylum claims. In comparison with the 2005 the countries of origin of asylum seekers slightly changed. As in last year 18,9% of the asylum seekers came from Ukraine and vast majority of them were people working long time illegally in the country who couldn't legalize their stay in the country in another way. In the year 2006 asylum seekers from Egypt were second largest population of the new asylum seekers in the Czech Republic. They were followed, differently from last year by nationals of Kazakhstan (236 individuals), Belarus (174), Russian Federation with 171 new asylum seekers and Vietnam with 124 new applicants for asylum. A total of 268 asylum seekers were granted refugee status in 2006. Many of them originated in Russia and Belarus.

Large number of the Egyptian asylum seekers asked for asylum at the airport where a new reception centre was built. Also previous detention centre Velké Přílepy changed into a new reception centre of the Czech international airport, although it is not situated in the airport area.

A significant part of the asylum cases proceeded at regional courts and at the Supreme Administrative Court. It means that in 2006 we dealt with more clients in later stages of the asylum procedure. As of the end of December, a total of 1.001 asylum cases were pending in the first instance. A total number of 1.578 cases were pending at regional courts as of the end of December 2006. The Supreme Administrative Court dealt with 1288 cessation complaints as of the end of December 2006.

OPU observed that the Department for Asylum and Migration Policy of the Ministry of Interior improved its work. First asylum decisions are usually delivered within 6 months. Some of the regional courts are processing the appeals faster (especially the County court in Prague which is responsible for the airport cases and cases from the detention centre in Bělá-Jezová) but some remained really slow. Only a few judges in the country really assess the material part of asylum cases. The serious backlog of cases is still pending with the Supreme Administrative court. The Supreme court steadily complains that the number of asylum cases before the court is overwhelming leaving little space for adjudicating other administrative cases.

The membership of the Czech Republic in the EU brought again several changes to the aliens and asylum law. The Asylum Act was changed in order to meet the provisions of European law, especially the Council Directive number 2004/83. Since 1st of September 2006 the Asylum Act no longer operates with the word asylum but uses instead the word international protection. International protection is defined into two categories: asylum and subsidiary protection. However, claimants do not choose for which type protection to ask. The previous asylum claim is now called claim for international protection and if a person does not meet the definition given for asylum, then subsidiary protection can be granted.

The definition of Asylum stays the same only the word sex was put among the reasons due to which a person could have reasonable fear of persecution.

The amendment to the Asylum Act mentioned above changed also the position of those who were granted toleration visa on bases of the non-refoulement principle. This principle is now part of the subsidiary protection and the Asylum Act rules those who were granted this status to change it in accordance with the new law. Practically it means people with toleration status

have to apply for international protection in the reception centre in Vyšní Lhoty as their toleration visa expires. This means every single individual granted toleration visa before September 2006 has to go to the reception centre, stay there and give interviews concerning the reasons of the subsidiary protection.

The amended Aliens Act does not require foreigners including refugees to meet the previous strict criteria for family reunification. OPU has already assisted a few asylum seekers to obtain a permanent residence permit based on family reunification. There is also a positive development regarding the right to work for asylum seekers after one year since the time of the asylum claim's submission as well as for foreigners benefiting from the subsidiary form of protection. Non-governmental organisations welcome the introduction of the new integration system for separated children seeking asylum in the Czech Republic established by the Ministry of Education, which is now responsible for this specific group of asylum seekers. NGOs appreciated the fact that the asylum procedure takes less time than in the past.

The main changes of the Asylum Act adopted in 2005 included a new provision on cessation complaints. Judges of the Supreme Administrative Court has now an opportunity to reject a cassation complaint in an easy and accelerated way in the case the *cassation complaint does not significantly exceed the self-interest of the claimant*. This modification is a compromise between the original proposal of the Supreme Administrative Court that demanded total exclusion of the right of lodge a cessation complaint and actual situation, when this right is often abused by economic migrants. OPU understands that the right to lodge cessation complaints was abused however, we do not agree that rejection of cassation complaint does not have to be reasoned at all.

Appeals against asylum decisions on termination of asylum procedure and appeals against “safe country” based asylum decisions do not have suspensive effect. It means the plaintiffs must ask the court for granting a suspensive effect in such cases individually. However, in reality, OPU hasn't observed this kind of decisions, so we suppose they are quite rare. The provision of the Asylum Act that states asylum seekers registered in refugee (asylum) facilities will be allowed to leave the centers to a maximum of 10 days a month remained unchanged. However, they are still able to apply for a longer permit to the Refugee Facilities Administration of the Ministry of Interior.

Regarding foreigners with subsidiary protection, it is a cause of our serious concern. They are not entitled to services that are provided by the Ministry in asylum facilities to people who were granted asylum. Because they don't have permanent residence they cannot be registered as unemployed at the Labour Office and hence they are not entitled to claim social benefits related to support of unemployed persons.

The Aliens Act was amended several times in the year 2006. Foreigners gained new opportunity to obtain toleration visa (§ 33) in case they appeal against administrative decision of the ministry or police. Also § 179 was subjected to a formal change when the definition of the obstacles to leave was basically replaced by the terms defining subsidiary protection.

Chapter 9 of the Aliens Act dealing with travel documents was modified slightly. Travel documents issued to a foreigner by the czech authorities need to bear biometrical information like any passport issued to a czech citizen.

A. Legal and structural conditions

1. Ratifications

	Ratified	In force since
Geneva Refugee Convention	November 26, 1991	February 24, 1992
European Convention on Human Rights	February 21, 1991	March 18, 1992
UN Convention on the Rights of the Child	January 7, 1991	February 6, 1991
UN Convention against Torture	July 7, 1988	August 6, 1988

2. Legal basis

Constitution	contains the right to asylum in Article 43 of the Charter of Human Rights and Freedoms
Asylum Act (No. 325/1999)	adopted November 11, 1999, in force since January 1, 2000
The Aliens Act	(No. 326/1999)
Act on Social and Legal Protection of Children	(No.359/1999)
Act on Execution of Institutional Education	(No. 109/2002)

3. Competences

Ministry of Interior	Department for asylum and migration policy	Competent for first-instance examination of application as well as social, medical and other interests of asylum seekers
Ministry of Interior	Refugee Facilities Administration	runs the accommodation centres and detention facilities
Ministry of Interior	Alien and Border Police	is competent for administrative expulsion
Ministry of Education, Youth and Sports		runs the facility for unaccompanied minors which opened in 2004 (Home for Children - Aliens)

Reception conditions for asylum seekers are set forth in the Asylum Act.¹ Asylum facilities include reception, accommodation and integration asylum centres as well as detention facilities for aliens. All these are provided and run by the Ministry of the Interior- The Administration of refugee facilities.

4. Societal context

There are numerous kinds of social benefits for Czech citizens (such as unemployment and housing benefits). The minimum wage is cca 8000 CZK (€280). The minimum social welfare for citizens in need is 4,600 CZK (€143). These social benefits are carried by the state. Citizens have the right to enforce their claims before court.

Asylum seekers are provided with accommodation and food and are entitled to a small amount of pocket money. However, The Administration of refugee facilities started to change this

¹ such as provisions on making applications, entry visas, asylum procedures, rights and obligations of applicants, forms of accommodation.

system and in several camps asylum seekers were provided with part of the minimum social welfare money for which they have to get food and everything else needed. This was a positive change to the majority of asylum seekers as their cultural demands for food were too diverse and they complained about provided food.

5. Access to the asylum process: conditions of entry and making application

According to Art. 3a of the Asylum Act, asylum seekers have the right to make an application to the police either at the border, the reception centre, the Alien and Border Police department (if they arrive "voluntarily") or the detention centre. The application can also be filed at the Ministry of the Interior if the person concerned should be in hospital or prison.

The asylum seeker must indicate that he/she wishes to make an application. A few days later, the application will be filled in with an interpreter being present. There is no time limit for the first application, with one exception: at the detention centre the application must be made within the first seven days. Members of the authority are always present.

A follow-up application for asylum is possible two years after the final decision from the first procedure. An exception to this rule is possible.

The law stipulates that the first-instance decision must be taken after three months. The Department of Asylum and Migration Policy (OAMP) settles "manifestly unfounded" cases within one month, a period also set out in the Asylum Act. Most applications for asylum are decided on within six months. For more complicated cases it often takes one year until the decision is made. There are exceptional cases where asylum seekers must wait three or four years for a decision to be made.

Protection from deportation during the ongoing asylum procedure

During the regular asylum procedure, there is a deportation ban which is respected by the authorities. Individuals who received in a criminal case a court decision on deportation constitute an exception to this rule. A court decision on deportation is issued when an asylum seeker (or other migrant) has committed a criminal offence or violated a previous administrative expulsion order.

Under Art. 32 of the Asylum Act, individuals whose application for asylum has been rejected have the right to bring an action against this decision within a period of 15 days. This period is seven days for asylum seekers in detention facilities, in the airport transit area and individuals whose application has been rejected as "manifestly unfounded". The action is brought to the regional court and has a suspensive effect until the decision is given. People have reported difficulties in lodging applications and complaints at Prague's Ruzyně International Airport.

Refugees at the border

If a refugee is intercepted at the border attempting to irregularly cross the border into the Czech Republic he/she is returned to the state from which he/she wanted to enter (Slovakia or Poland in most cases). In case he/she has already crossed the border, he/she is returned within 24 hours. Each of the neighbouring countries of the Czech Republic has been declared a "safe third country" by the Czech authorities.

Asylum (refugee status determination - RSD) procedure for refugees arriving at the airport can not be considered fair. Since our presence at the airport in 2004, no one single asylum seeker

has been granted asylum there. The RSD procedure is implemented with the clear objective of the Ministry of Interior – to reject every asylum claim as soon as possible and deport the rejected asylum seeker to his/her country of origin. We might only guess that the reason for it is that vast majority of asylum seekers at the airport come from the Middle East countries. As a result, a number of genuine refugees at the airport with strong asylum claims have been wrongly rejected. Many of them complain about the work of interpreters hired by the Ministry. Time limits for the release of asylum seekers from the closed reception/detention center at the airport are not respected. The Ministry created a number of strange legal fictions concerning formal official admission of asylum requests, formal delivery of asylum decisions and formal delivery of appeal decisions. Another Ministry's interpretation of the law led to a situation that rejected asylum seekers have lived for months in the closed airport facility until they are forced to deportation or "voluntary" repatriation.

Paradoxically, the Ministry created a branch airport detention center in one of the regular detention centers close to Prague in order to transfer the *airport refugees* there and thus change the local competence from the slow City Court in Prague to much faster Regional Court in Prague. As a result, the new real airport center has been half-empty since summer 2006. OPU believes that the above described unfair treatment has been introduced as an over-reaction on the arrival of a few hundreds of Egyptian asylum seekers this year. OPU filed a number of legal actions to regional courts, Supreme Administrative Court and Constitutional Court but they remain pending for or rejected after long time.

A refugee travelling illegally from the Czech Republic to Germany or Austria will be most probably returned by the authorities there automatically and without an examination of the individual case, under the effective readmission agreements. On return to the Czech Republic the individual is detained and may apply for asylum within seven days.

Asylum seekers who are already on Czech territory and express their intention to apply for asylum are detained and may make the application from the detention facility. If an asylum seeker "voluntarily" addresses an officer at the border expressing his/her intention to apply for asylum, he/she is forwarded to one of the reception centres after the alien police has been informed and the asylum procedure is opened. This holds true for refugees entering from a "safe third country" as well. It is only in exceptional cases that individuals are sent back to the "safe third country" without having been admitted to the asylum procedure.

Asylum seekers who have already made an application in the Czech Republic and who are detained when trying to leave the country are stopped and brought to a reception or detention facility. The deportation procedure is then opened. This individual may not apply for asylum again until two years after the decision in the first procedure. Asylum seekers returned on the basis of the Dublin Regulation are an exception to the 2 years ban.

"Safe third country" rule

This rule is applied regularly. A list of "safe third countries" does exist but it is not made public. In a particular case it is possible to refute the claim that a third country was safe for an individual asylum seeker.

6. Special procedures

There is a special reception facility at the **airport** where refugees are subject to the expedited procedure. **The longest duration of stay is 57 days.** After this period at the latest, refugees shall be brought to an accommodation centre.

Meanwhile, asylum seekers may not leave the facility. A Catholic charity organisation and OPU provide legal advice. From 2003 till 2007, there were several cases which gave rise to doubts about the fairness of the airport procedure.²

As the Czech Republic is not a member of the Schengen Agreement yet any person entering the country is subject to border controls. If an individual does not have a valid identity card, passport and visa (for countries requiring one) he/she is not allowed to enter the country. If a person voluntarily shows his/her travel documents at the border and requests asylum he/she is issued a permission to enter and is asked to report to the reception centre. However, it does not happen very often that refugees contact the police of their own accord. In most cases, the police intercept them. Rarely do they stay longer than 24 hours at the border police station. They are either returned to the country from which they entered or they are brought to a detention facility (see B.8e).

7. Distribution – first reception centres, further accommodation centres³

Under the law asylum seekers must remain at the reception centre while identification is carried out, the application for asylum is lodged and medical examinations are conducted. Reception centres are located in

- Vyšní Lhoty (Frýdek-Místek district)
- Prague-Ruzyně airport (including above mentioned centre in Velké přílepy)
- the detention facilities for aliens (Frýdek-Místek, Poštorná, Bělá pod Bezdězem).

The asylum seekers then move to accommodation centres where they live until the asylum procedure is decided on. Accommodation centres are located in

- Zastávka u Brna (Brno–venkov district)
- Havířov (Karviná district)
- Zbýšov (Brno–venkov district)
- Stráž pod Ralskem (Česká Lípa district)
- Kostelec nad Orlicí (Rychnov nad Kněžnou district).

If a refugee has been recognised he/she moves to an integration centre for a transitional period. These centres are located in

- Jaroměř (Náchod district)
- Zastávka u Brna (Brno–venkov district)
- Hoštka (Litoměřice district)
- Ústí nad Labem – Předlice (Ústí nad Labem district)
- Stráž pod Ralskem
- Havířov

8. Dublin cases - accommodation

² An asylum seeker from Palestine who had destroyed his travel documents was deported to Turkey, the country from which he entered the Czech Republic. From the Turkish airport he was sent back to Prague. There he was held for seven months before he was allowed to leave the airport's transit area.

³ Interactive map: <http://flash.suz.cz/uvod.html>

Regarding the social reception conditions, the law does not distinguish between asylum seekers in Dublin II procedures and those in regular procedures. There are no special accommodation facilities for Dublin cases. Asylum seekers who are returned to the Czech Republic under Dublin II are usually accommodated in open accommodation centres. Asylum seekers under the Dublin procedure who are about to be deported to another EU Member State responsible for proceeding the asylum claim are usually detained.

B. Details

1. Information (CD Art. 5)

Asylum seekers may establish contact with staff members of non-governmental organisations (NGOs), charity associations and the UNHCR (Art. 38 Asylum Act). NGOs actively offer their assistance in the accommodation facilities, some of them even have their own offices there. They provide advice on social and asylum law. Some NGO advice projects are state-financed.

The Refugee Facilities Administration of the MOI as well as NGOs as the Organisation for Aid to Refugees (OPU) distribute brochures and fact sheets in various languages (English, Russian, Arabic, French, Chinese and Czech) on the Czech asylum procedure.

During the first hearing the member of staff of the Department for Asylum and Migration provide asylum seekers with a four-page fact sheet about their rights and obligations as asylum seekers. This information is written in their own language. They are also informed about the possibility of addressing NGOs which provide legal and social assistance. This duty to supply information is laid down by law and is generally respected by authorities.

2. Documentation (CD Art. 6)

As soon as the application has been filed, asylum seekers are issued a document which confirms the application ("Certificate of an Asylum Applicant", Art. 57 Asylum Act). It certifies the identity and legal status of the holder, for example during police controls. As there is no residence obligation asylum seekers may move freely within state territory – except for the high number of asylum seekers in detention. Asylum seekers who do not live in accommodation centres are obliged to communicate their address to the authorities (Art. 77 Asylum Act). In addition, they have to carry with them a "visa for the purpose of the asylum procedure", in keeping with Art. 72 of the Asylum Act. The document is issued to the asylum seekers as soon as the application has been filed. The three-day period stipulated in the Directive is therefore observed.

Asylum seekers in detention facilities and prisons do not receive this document. No document certifying their legal status is issued to them. This information may only be viewed in the files.

3. Legal advice, psycho-social counselling, NGO access (CD Art. 14(6))

Many NGOs in the refugee sector has entered into agreement with the Office for Asylum and Migration or the Refugee Facilities Administration, on the basis of which permissions for access to the accommodation facilities are issued to NGO members of staff. Access is not denied, with a few exceptions. There are four NGOs that regularly visit the different facilities: the Organisation for Aid to Refugees (OPU), the Counselling Centre for Refugees (PPU), the Association of Citizens Dealing with Migrants (SOZE) and Caritas. They mainly depend on

financial support by the state.

From Mondays to Fridays, members of staff of the Association of Citizens Dealing with Migrants (SOZE) and Caritas work in the reception centre Vyšní Lhoty. Both NGOs employ lawyers specialised in asylum law. Counselling is free of charge for asylum seekers. A psychologist of SOZE is present at the centre twice a week.

The OPU, the Counselling Centre for Refugees (PPU), SOZE and Caritas work in the accommodation facilities with a permit issued by the Ministry of Interior. There are fixed hours for counselling. Asylum seekers in private accommodations come to the offices of NGOs or to the facilities in order to speak to lawyers there. The NGO staff has access to the facilities beyond these hours as well. If the counsellors know a client's name they can meet him/her directly at the accommodation facility. The other asylum seekers must address the counsellors themselves. It is possible for the counsellors to visit individuals who are in quarantine.

Legal advice is in most cases offered by NGO staff. Only a few asylum seekers are represented by legal experts from a lawyer's office. However, NGOs have a lack of financial and staff resources. Often, advice is provided by students at the Faculty of Law or by less qualified lawyers. At the Faculty of Law at Charles University and the Faculty of Law of the Masaryk University in Brno, there are classes in asylum law for volunteers, offered and financed by OPU and a Brno based NGO SOZE.

4. Residence and freedom of movement (CD Art. 7)

There is no residence obligation. A high number of asylum seekers are detained during the course of the asylum procedure. Maximum detention period is 180 days. According to the Czech law, rejected asylum seekers at the airport are detained for an unlimited period of time. Detention of rejected asylum seekers at the airport can be imposed for an indefinite period of time.

Detention conditions have improved since the beginning of 2006. In January, the Refugee Facilities Administration of the Ministry of Interior took over from the Aliens Police the responsibility for administration of all detention centers. The living conditions, social care, treatment of vulnerable groups, cooperation with the Ministry's staff as well as availability of free time activities are far better than in the past. Material conditions of detainees are on a satisfactory level. OPU appreciated the above described changes which were introduced to comply with provisions of the Reception Directive. However, some problems remain unsolved such as the detention of unaccompanied minor asylum seekers from 15-18 years of age as well as the too slow review of detention decisions by courts which is not in line with requirements of Article 5 of the European Convention on Human Rights and Fundamental Freedoms.

5. Families (CD Art. 8)

In principle, the unity of the family is respected by the authorities. It is obligatory, under Art. 44 of the Asylum Act, to maintain family unity. But this Article contains a loophole by making family unity conditional on the accommodation situation in the centre. In practice, though, families are rarely separated.

Special detention facilities exist - one for families and one for unaccompanied minors and female detainees including asylum seekers. The living conditions in these detention centres

violate the best interests of the child and are not in keeping with the UN Convention on the Rights of the Child.

6. Medical screening (CD Art. 9)

Every asylum seeker, including children, has to be put in quarantine for at least 14 days at the beginning of the asylum procedure, according to the law. Doctors carry out medical screenings and follow up indications given by patients. Blood analyses and TB tests are obligatory. HIV tests are conducted if there are "indications of an infection". DNA tests are not carried out.

7. Schooling and education of minors, access to employment, vocational training (CD Art. 10, 11, 12)

7a. Schooling (CD Art. 10)

Children of asylum seekers attend public schools. Attendance at primary school (ages 6-15) is mandatory. Children in detention also visit schools. First of all, children have to attend Czech language classes in the accommodation facilities or primary schools for three to six months on average. They are gradually integrated into regular school classes.

In theory, it is possible to receive secondary education, but a good knowledge of the Czech language is a prerequisite. There are only very few child refugees over the age of 15 who still attend school. Minor asylum seekers who do attend secondary school are not excluded from class when they come of age. As this is rarely the case it is difficult to compare experiences. Mostly, it is a negative decision in the asylum procedure that causes people to cease attending or drop out of school. Unsatisfactory marks are another reason for drop-out.

With yearly spending of 2,000 CZK (about €65) for textbooks, the Refugee Facilities Administration supports pupils whose parents are not able to pay for school items (such as textbooks).

During quarantine, children are not able to attend school, i.e. during the first 2-3 weeks after applying for asylum (unless contagious diseases are diagnosed). Art. 10(2) of the Directive is not applied (postponing access to education for up to three months). They can visit children center in the quarantine.

In some accommodation centres there are activities such as sport, music, handicrafts or art, which are organised and taught by asylum seekers. Rooms and materials are provided by the operators of the centres.

7b. Employment (CD Art. 11)

Under the Act on Employment, asylum seekers are excluded from the labour market for one year after their application. After this period, they are allowed to legally take up work on the basis of the work permit, independently of the first-instance decision. If the first decision is negative asylum seekers are still not excluded from the labour market. Forced labour or community-service work does not exist. Asylum seekers in accommodation centres usually work in the library, tea-room or kitchen.

As a rule, asylum workers work as salaried employees, with a few exceptions where individuals set up their own business (illegally).

For asylum seekers it is difficult to find legal work due to administrative obstacles and various documents required. An asylum seeker may only take up legal job after one year in the asylum procedure and after he is granted a job permit related to the specific job position. This document can only be issued by the job centre of the district where the future employment will take place.

Illegal work therefore prevails.⁴ About 90 percent of asylum seekers in private accommodation work illegally as they have to support themselves (see B.8a). As social benefits are only paid to asylum seekers in accommodation facilities those in private accommodation are literally forced to work illegally. If it can be proven that an asylum seeker is working illegally he/she will usually not be prosecuted but the employer will.

The Czech Statistical Office offers no data on asylum seekers in employment.

7c. Access to vocational training (CD Art. 12)

Asylum seekers do not have an opportunity to engage themselves in regular vocational training activities with exception of language and sewing workshops in some refugee facilities. Since 2005, there are project for vocational training within the EQUAL framework. The lack of any activities in detention centres is a serious problem but NGOs are allowed and supported by the Ministry to organize free time activities in detention centres.

8. (Material) reception conditions

8a. Modalities of provision (CD Art. 13, 14)

The state is responsible for the maintenance of asylum seekers in accommodation facilities. The Ministry of the Interior's Refugee Facilities Administration heads the reception centres. The Asylum Act stipulates the relevant tasks.

Material reception conditions in the Czech Republic include mainly benefits in kind. As of January 2007, social benefits are not paid out anymore; asylum seekers only receive a monthly spending money of 360 CZK (€11.60) in cash. Asylum seekers who leave the accommodation facility to find private accommodation receive three more months of financial support. After this period, they have to support themselves and they do not receive spending money, either.

Asylum seekers who have financial resources but decide to stay at the refugee centre have to support themselves (accommodation and food) and do not receive spending money. Asylum seekers in detention are obliged to cover the costs of detention from money they possess at the time of their detention order. Sometimes very high sums are confiscated using that measure.

Accommodation, food and spending money are provided during the whole procedure (including the appellate procedures). These benefits are the same for all asylum seekers, independent of the stage of their procedure. The benefits are discontinued following a negative decision by the district court. In case that an appeal is lodged to the Supreme Administrative

⁴ The Minister for Labour and Social Affairs declared the combating of illegal work one of his main priorities and created a department competent for this purpose.

Court the asylum seeker receives benefits based on the subsistence level.

Apart from the above mentioned benefits, asylum seekers in the centres also receive hygiene products. Clothing is provided by the NGOs and mothers of newborn babies are given baby clothing. Expenses for private trips are not reimbursed. Transportation to school and in medical emergencies is paid for. Sometimes outings for children are financed.

8b. Facilities / living conditions⁵

Refugee centres are run by the Refugee Facilities Administration (Ministry of the Interior). Some of them belong to private or public entities, however, administration is provided by the Refugee Facilities Administration of the Ministry of Interior. Staying at the accommodation centres is voluntary (Art. 77 of the Asylum Act). During the asylum procedure, asylum seekers are entitled to food, accommodation and other free benefits as long as they stay at one of the centres (Art. 42 Asylum Act). It is possible to stay in private accommodation. The asylum seeker must inform the authorities of his/her new address at least 15 days prior to leaving the centre.

The Vyšní Lhoty reception centre has a capacity of 580 beds. If need be this can be extended to 760 beds. In 2003, there were several situations when the number of asylum seekers exceeded 1,000 (most of them Chechens fleeing to the Czech Republic via Poland).

The reception centre at Prague airport has 40 beds. Lawyers from OPU and Caritas visit the airport reception facility twice a week. They are not allowed inside the transit area, i.e. contact with those asylum seekers may only be established in the reception centre. Asylum seekers should not stay at a reception centre for more than three weeks. In an accommodation centre the duration of stay can vary – in some cases people stay for a few weeks, sometimes they stay for three years or more.

It is worth noting the geographical situation of reception and residential centres. The **Vyšní Lhoty** centre was opened in 1994 as accommodation centre and was turned into a reception centre in 1998. It is situated in a village 30 km away from Ostrava. The city can be reached by bus only. Usually, accommodation centres are situated in the countryside and are hard to reach by public transport. Travel expenses are paid for by the asylum seekers, except in emergencies.

The Vyšní Lhoty centre consists of several individual buildings, some of which are assigned to special groups (families, single men, etc.). In the building for families, sanitary facilities are not separated by gender. There is a laundry in each building. There is a reading room and a small shop selling basic foodstuffs and hygiene products. The inhabitants can help to clean the facility and are paid (a very small amount).

Dietary habits are mostly respected in the accommodation centres of the Refugee Facilities Administration as well as in detentions. In the accommodation centres there are public phones, but asylum seekers need a phone card to make calls. This presents a problem in detention facilities as detained asylum seekers do not have any money to buy phone cards. In the accommodation centres there are public phones, but asylum seekers need a phone card to make calls. This presents a problem in detention facilities as detained asylum seekers often do not have any money to buy phone cards.

⁵ These are only a few examples (facilities visited). This chapter does not cover the accommodation situation as a whole in one country but compares the huge differences in accommodation standards.

Security in the accommodation centres is ensured by private security companies hired by the state. A member of staff of the facility is present in the entrance area of each building 24 hours a day to solve the different issues and "minor problems" of the residents.

Visitors are not allowed in the quarantine reception centre. They are allowed in the accommodation centres if they have been announced in writing (registration form). There is a separate room for visits. Asylum seekers in the detention centre may receive one 30-minute visit every three weeks. The operator of these facilities is entitled to allow more visitors than stipulated in this regulation. Similar conditions exist in detention centres.

In the open centres NGOs offer activities for children (entertainment, sports and play). This is now also possible in the detention centres. NGO staff members regularly inspect the living conditions in all the centres during their visits.

8c. Social environment

Asylum seekers are placed in quarantine for the first 2-3 weeks at the reception centre. Their social interaction with people outside the reception centre is therefore extremely limited. During their stay at accommodation centres children are the ones who communicate the most with the local Czechs.

Asylum seekers in detention centres do not communicate with people outside the facility. In principle, interaction between asylum seekers and their Czech neighbours is limited to what is necessary. With a few exceptions the Czech locals do not offer their help or express their sympathy to asylum seekers in their daily lives. Czech locals are invited to the accommodation centres for an "open day" and various activities to bridge the local and host population are offered by NGOs and the Refugee Facilities Administration of the Ministry of Interior. There are cultural events such as dances and music or an exhibition of works of art made by asylum seekers. In 2005 the Refugee Facilities Administration of the MOI implemented an Under one Sun project introducing refugees to the Czech population at many occasions like concerts, movies etc.

8d. Staff (CD Art. 14 (5))

Out of all staff members in reception and accommodation centres only the social workers are trained specifically for working with asylum seekers. The security guards and above-mentioned staff members who are present 24 hours a day on the premises are poorly trained in this field. Only the social workers know the asylum procedure in detail.

All members of staff in the accommodation facilities are employed, with the exception of NGO staff.

To summarise the findings: not all the employees at the centres were not sufficiently trained in areas relevant to their work with asylum seekers. However, most of them are very experienced as they have been working there for a number of years. Unfortunately, some of them suffer from the "burn-out syndrome" which is why their initial commitment has waned considerably over the years.

8e. Exception arrangements, detention (CD Art. 14(8) and 16)

8e.1 - Detention conditions have improved since the beginning of 2006. In January, the Refugee Facilities Administration of the Ministry of Interior took over from the Aliens Police the responsibility for administration of all detention centers. The living conditions, social care, treatment of vulnerable groups, cooperation with the Ministry's staff as well as availability of free time activities are far better than in the past. Material conditions of detainees are on a satisfactory level.

OPU appreciated the above described changes which were introduced to comply with provisions of the Reception Directive. However, some problems remain unsolved such as the detention of unaccompanied minor asylum seekers from 15-18 years of age as well as the too slow review of detention decisions by courts which is not in line with requirements of Article 5 of the European Convention on Human Rights and Fundamental Freedoms.

Individuals irregularly crossing the border into the Czech Republic are detained. This includes individuals who are intercepted while trying to cross the border without valid travel documents and individuals who are unlawfully staying on Czech territory and are intercepted.

The maximum duration of detention is 180 days (Art. 125 of the Aliens Act (AusländerG)). Under the Aliens Act detention shall be followed by deportation. It is possible for the detainee to apply for asylum from detention – and many do so.

During the asylum procedure deportation is only possible if another EU member state is competent for the examination of the application for asylum under the Dublin II Regulation or if a court deportation has been ordered.

Even migrants who have not applied for asylum are rarely deported. In particular cases this depends on whether the embassy of their country of origin cooperates with Czech authorities and issues a new passport.

If the application for asylum is rejected the Alien Police issues an exit visa for the rejected asylum seeker. He/she must leave the country within a certain time limit, as stated on the visa (usually 15 days).

According to the Czech criminal law, the "refusal to execute a decision under administrative law" is a criminal offence.⁶ If a person fails to leave the Czech Republic within the prescribed time limit he/she commits this criminal offence. The judge decides whether a prison sentence is imposed (regular prison, not the detention facility for aliens). This sentence is usually imposed after the second or third time an exit visa has been ignored.

Some minors between 15 and 18 years of age are detained. There is a special detention facility for asylum seekers with special needs (such as families and pregnant women). **However, unaccompanied minors were sometimes placed in the detention centres for adults.**

Asylum seekers in detention are informed of their rights and obligations in the same way and to the same degree as asylum seekers in open reception centres but they do not receive the same documentation as other asylum seekers (see B.2).

Asylum seekers in detention do not receive social benefits. They must pay for the imprisonment and food given to them so after the detention is over they may end up without

⁶ see annex 3 for details

any means to stay or leave the country and often improperly documented to enter any other country including their countries of origin. They receive accommodation and food. The unity of the family is maintained in principle. However, the OPU documented one case where a brother and sister were not allowed to communicate with each other.

No educational programmes are offered. Libraries are poorly equipped, if they exist at all. Asylum seekers in detention are not allowed to work.

Asylum seekers in detention are entitled to lodge an appeal against the decision resulting in detention. There is a problem with access to legal aid in case that NGO advisors can not come to detention centres. In case of the appeal against the detention order, regional courts are obliged to handle the case of this person first. In practice, the regional courts are not able to decide about the appeals speedily neither in the 180 days duration of the detention.

Asylum seekers who are deported under Dublin II are entitled to lodge an appeal against the discontinuation of the asylum procedure in the Czech Republic. The appeal must be directed to the district court. The judge decides whether the appeal has a suspensive effect or not. The decisive factors are the individual case and the judge's assessment.

8e 2) The airport asylum procedure has deteriorated considerably while at the same time, the conditions of accommodation for refugees at the airport have improved. In January 2006, the Ministry of Interior opened a new closed reception facility in the premises of the international airport in Prague. The new center with more space and better conditions for social work and counseling offered more comfortable place of asylum seeker's stay despite the initial problems with the possibility of asylum seekers to go to an outside space and limited access of NGO counselors to the center due to the airport security regulation. The co-operation with the Ministry's staff has been good.

However, the asylum (refugee status determination - RSD) procedure for refugees arriving at the airport can not be considered fair. Since our presence at the airport in 2004, no one single asylum seeker has been granted asylum there. The RSD procedure is implemented with the clear objective of the Ministry of Interior – to reject every asylum claim as soon as possible and deport the rejected asylum seeker to his/her country of origin. We might only guess that the reason for it is that vast majority of asylum seekers at the airport come from the Middle East countries. As a result, a number of genuine refugees at the airport with strong asylum claims have been wrongly rejected. Many of them complain about the work of interpreters hired by the Ministry.

Time limits for the release of asylum seekers from the closed reception/detention center at the airport are not respected. The Ministry created a number of strange legal fictions concerning formal official admission of asylum requests, formal delivery of asylum decisions and formal delivery of appeal decisions. Another Ministry's interpretation of the law led to a situation that rejected asylum seekers have lived for months in the closed airport facility until they are forced to deportation or "voluntary" repatriation.

Paradoxically, the Ministry created a branch airport detention center in one of the regular detention centers close to Prague in order to transfer the *airport refugees* there and thus change the local competence from the slow City Court in Prague to much faster Regional Court in Prague. As a result, the new real airport center has been half-empty since summer 2006. OPU believes that the above described unfair treatment has been introduced as an over-reaction on the arrival of a few hundreds of Egyptian asylum seekers this year. OPU filed a number of legal actions to regional courts, Supreme Administrative Court and Constitutional Court but

they remain pending for or rejected after long time.

9. Health care (CD Art. 15)

"Emergency care" (CD Art. 15) in refugee centres means informing the competent person in charge, who is obliged to call the emergency doctor.

In most accommodation centres a doctor is present from Mondays to Fridays, sometimes only 2-3 days a week. Nurses are present in all the centres 24 hours a day. None of them work with interpreters.

Each applicant for asylum has his/her own health file indicating their state of health and previous diseases or operations. Since 2006, asylum seekers receive medical insurance cards enabling them to obtain medical care similar to the one available to Czech citizens.

"Necessary health care" (CD Art. 15) is interpreted as basic medical care. Additional treatments require the approval of the doctor's superior. We receive very small number of complaints from asylum seekers concerning inadequate medical care.

10. Reduction and withdrawal (CD Art. 16)

10a. Procedure

There is no enforceable right to social benefits in the Czech Republic. The discontinuation of the asylum procedure is followed by the discontinuation of benefits. Asylum procedures can be discontinued for a number of reasons by far exceeding the reasons for discontinuation of benefits set out in the Directive. These reasons are set forth in Art. 25 of the Asylum Act.⁷

The violation of the residence obligation is not a reason for exclusion from benefits, but a lack of cooperation with the authorities can lead to the discontinuation of the asylum procedure. Another application for asylum can be made two years after the discontinuation and termination of the procedure.

There are no homeless asylum seekers. Neither are there serious difficulties in health care because of a withdrawal of benefits, according to the OPU.

⁷ Proceedings in the Czech Rep. shall be terminated if:

- a) the asylum seeker has withdrawn his/her asylum application,
- b) the reason for proceedings brought on the Ministry's initiative ceased to exist,
- c) the asylum seeker has died during the procedure,
- d) the asylum seeker fails to appear for an interview without any serious reason (Art. 38(2)) or fails to provide the information required for the current status of the situation to be established in a reliable manner and a decision cannot be made on the basis of the facts established so far,
- f) the period of suspension of the proceedings has expired (Article 26), with the exception of proceedings suspended for medical reasons, and provided that a decision cannot be made on the basis of the file,
- g) another state is competent to carry out the asylum procedure, or
- h) the asylum seeker illegally entered a territory of another state during the asylum procedure or attempted to illegally enter a territory of another state.
- i) the asylum application is inadmissible.

In the Czech Republic, the benefits granted within the reception conditions framework are not linked to the period in which asylum seekers have to report to the authorities after their arrival (CD Art. 16(2)).

As explained above, benefits or material reception conditions are directly connected to the asylum procedure. The reasons for the withdrawal of benefits set out in the Asylum Act exceed those in the Directive. Apart from the discontinuation of the procedure, reasons are the move to another accommodation facility or a fine (maximum fine 2,000 CZK (about €65)).

11. Persons with special needs (CD Art. 17)

Special needs status is established either during the first interview at the reception centre by the Refugee Facilities Administration or during the hearing at the beginning of the asylum procedure by the Department for Asylum and Migration of the Ministry of the Interior. The authority should then inform the head of the refugee centre of the special needs status of a person, mainly unaccompanied minors, single parents with minor children and victims of torture or violence. They are accommodated in separate "protected zones" of the reception and accommodation centres.

The other groups mentioned in the Directive as "persons with special needs" are usually treated as such in the Czech Republic. There are programmes for handicapped persons in specially equipped rooms in one reception center (Zastávka u Brna) . Pregnant women do receive more substantial food than other asylum seekers. What is most disturbing is the situation of unaccompanied minors who are still in some cases detained even with adults in detention facilities. In detention centres there is no special help for handicapped persons. Pregnant women do receive additional food and hygiene products in the detention facilities.

11a. Minors (CD Art. 18)

The age of an asylum seeker is only determined in exceptional cases. In the event that the doctor strongly doubts the age stated by an asylum seekers without a passport he/she will determine the age during quarantine by dental analysis or an X-ray of the bones of the hand.

Children in detention centres are exposed to poor living conditions – in relation to their needs. They can suffer severe mental, physical or sexual damage in detention, especially if the duration of detention is up to six months.

11b. Unaccompanied Minors (CD Art. 19)

In the Czech Republic asylum seekers come of age, as far as the alien law is concerned, when they turn 15 (Act on Residence of Aliens). They reach the age of full majority (including the asylum procedure) when they turn 18.

Protection of unaccompanied minor asylum seekers has improved after the implementation of the Reception Directive. The children are no longer placed together with adults in asylum centers (with exception of some minors in one of the detention centers). Two special children homes designed only for unaccompanied foreign children are fully operational under the responsibility of the Ministry of Education, Youth and Sport. The children there benefit from

good care and supervision of governmental and nongovernmental workers including OPU lawyers and social workers.

Unaccompanied minor asylum seekers older than 15 years of age are rarely recognized as refugees. On the other hand, there is a provision in the Aliens Act which opens a legal way for foreign unaccompanied children to obtain permanent residence permit in the Czech Republic. We consider this provision to be a good practice in cases of some rejected minor asylum seekers who would otherwise had to return to their countries of origin. In 2006, a total of 81 new asylum application were lodged by unaccompanied minors. 12 UAMs were granted refugee status, three subsidiary form of protection.

<i>A. Main countries of origin</i>	<i>New applications in 2006</i>	<i>Refugee status granted in 2006</i>	<i>Subsidiary protection granted in 2006</i>
Afghanistan	0	0	1
Algeria	0	0	0
Armenia	2	1	0
Bangladesh	1	0	0
Belarus	0	0	0
China	11	0	0
Ghana	3	0	0
Georgia	2	0	0
India	6	0	0
Iraq	1	0	0
Kazakhstan	3	0	0
Kyrgystan	0	0	0
Sri Lanka	0	1	0
Mongolia	0	2	0
Russia	1	0	1
Somalia	1	3	0
Sierra Leone	1	0	0
Ukraine	12	4	0
Vietnam	1	0	0

There are special rules for UMs in the asylum procedure. Art. 16(3) provides that a UM shall not be treated as "manifestly unfounded" in an expedited procedure. Art. 89 of the Asylum Act stipulates the appointment of guardians to protect the rights of minor children seeking asylum in the Czech Republic. Another article of the Asylum Act ensures that in case of a negative decision on the asylum application submitted by the minor, the obstacle to travel decision resulting in toleration stay protects the child from being sent to their countries of origin without any follow up care.

Unaccompanied minor asylum seekers are represented by an "asylum guardian" who is only competent for the process of the procedure. In most cases, these guardians are NGO staff members. A second guardian ("residential guardian") is appointed for UAMs living in a refugee centre for the duration of their residence in the Czech Republic (Art. 2 of the Act on Legal and Social Protection of Children).

11c. Victims of torture and violence (CD Art. 20)

In the first interview it should be determined whether an asylum seeker is a victim of violence or torture. Victims of torture and violence who apply for asylum (especially victims of forced prostitution or domestic violence) are allowed to stay in the "protected section" of the reception centre or accommodation centre. Victims of domestic violence can be accommodated separately from the violent family member(s).

However, the fact that traumatism is not always diagnosed or recognised presents a serious problem. In most cases, this is mainly the fault of staff members of authorities, who may play down reports about traumatised asylum seekers. There are not sufficient psychologists available able to provide therapeutic care and treatment to traumatised people. Instead, general practitioners prescribe psycho-pharmaceutical drugs which are supposed to cure them.

12. Training staff of authorities and organisations (CD Art. 24)

The information about a training provided to accommodation facility staff on the reception conditions for asylum seekers is not available to OPU. Officers and other employees who are in daily interaction with asylum seekers merely fulfil their tasks with different level of their knowledge about the matter. This deficit sometimes results in procedural errors. NGO experts are trained by using the funds from the EU. NGOs organise their own training programmes for their members of staff.

The decision-makers in the competent authorities are mostly university graduates, the majority of them legal experts. They conduct interviews and make decisions regarding the application for asylum but they are sometimes not trained in details such as application of the internal flight alternative etc.

13. Self-organisation

Some of the asylum seekers form groups but self-organisation takes place at an informal level. There are no formal advisory committees, either. Sometimes one person acts as speaker for one specific group. A Refugee Association has been established in 2004.

C. Action needed

- a) unaccompanied minors must be taken out of detention centres
- b) the airport RSD procedure must be improved in particular the quality of asylum decisions
- c) asylum seekers at the airport shall not be detained at the airport for unlimited period of time