

#IBELONG



Faces of
STATELESSNESS
in the Czech Republic

« I am visible, but when you have no rights,
you're nobody. I just don't exist as a normal person.»

Faces of **STATELESSNESS** in the Czech Republic



ACKNOWLEDGMENTS

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ABBREVIATIONS

Census	Census of Population, Buildings and Dwellings
CSO	Czech Statistical Office
CZ	Czech Republic
FIS	Foreigner Information System
Mol	Ministry of the Interior
PRIS	Population Register Information System
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
1951 Convention	1951 Convention Relating to the Status of Refugees
1954 Convention	1954 Convention Relating to the Status of Stateless Persons
1961 Convention	1961 Convention on the Reduction of Statelessness

FOREWORD

The present study “Faces of Statelessness in the Czech Republic” was compiled in 2018 and reflects the state of events as of the end of 2018. Since then, there have been new developments in relation to the situation of stateless persons in the Czech Republic.

The first area in which certain developments have taken place since the end of 2018 is the **decision-making on applications for the determination of statelessness** lodged under Section 8 (d) of the Asylum Act.¹

The second area covers the **legal status of applicants for determination of statelessness**. It has become clearer based on the first case-law made to remedy legal gaps in the statelessness determination procedure that has not been regulated in law.

The text box added into the legal analysis of the study summarises these changes, including an assessment of their impact on the legal status of stateless persons. The summary is limited to an overview based on the findings obtained by UNHCR as part of its activities. Neither the text nor the facts contained therein are meant as an integral part of the study.

As will be seen, **the conclusions and recommendations made regarding the absence of regulations on the legal status and insufficient guarantees in relation to both the applicants for the determination of statelessness and recognized stateless persons remain valid.**

In other areas (applicable legislation, statistics, social services) the described facts and findings remain unchanged and so is the validity of relevant conclusions and recommendations.

June 2020

¹ Act No 325/1999 on Asylum and amending Act No 283/1991 on the Police of the Czech Republic, as amended.

EXECUTIVE SUMMARY

The present study seeks to examine the phenomenon of statelessness in the Czech Republic, where it has yet received very little attention and wrongly appears to be non-existent in the country. While focusing on statelessness in a migratory context, the study is based on interviews with stateless persons in various situations, as well as a desk research to clarify and frame the narratives. The result is therefore a combination of legal and statistical analyses with human stories about the faces of statelessness and the impact it may have on everyday lives.

The statistical research conducted in the study has shown that there are several challenges when establishing the exact number of stateless persons currently living in the country. Only a qualified estimate has, thus, been possible. Although stateless persons are included in publicly accessible governmental statistics, the available information is often incomplete or displays contradictions. For example, recent statistics do not include stateless persons living in the country without a valid residence permit. The overall picture is further complicated by the lack of consistency in assigning the statistical codes reserved for stateless persons. Problems are, thus, encountered in the current system of statistical records and its accurate reflection of statelessness, leading to stateless persons being made partially invisible. Based on the present analysis and regardless of their residence status, it is estimated that, in total, up to 1,500 stateless persons living in the Czech Republic, which corresponds with the figure indicated in the last population census.

The obligations listed under the 1954 Convention Relating to the Status of Stateless Persons (“1954 Convention”)², to which the Czech Republic is a State party, have not been fully incorporated into national legislation. The definition of a stateless person is not contained in national law and there is no dedicated procedure in place to determine statelessness. While this is not an explicit requirement of the Convention, it is highly recommended for State parties to comply with their Convention obligations. Czech legislation has no specific provisions related to the legal status of stateless persons and applicants for the determination of statelessness. This situation has negative implications on the realisation of rights pertaining to stateless persons as well as on the predictability and lawfulness of the procedure applied by administrative bodies and courts. The lack of an effective statelessness determination procedure also has a negative impact on the collation of statistical data. In addition, the awareness amongst officials, lawyers and social workers in respect of the situation of stateless persons is lacking.

Effective solutions to stateless person’s specific situation, be it naturalization, acquisition or confirmation of nationality, and to their residence status is, arguably, not provided for by the existing legislative framework. Some stateless persons, thus, fall into an irregular situation and are unable to reach a permanent resolution through statelessness determination procedure. The possibility to file an application for the determination of statelessness status pursuant to the 1954 Convention is only mentioned in Section 8 (d) of the Asylum Act and is limited in its effectiveness. For example, according to the interviews conducted in the present study, this procedure was not used in practice. In the past two years, the MoI has not responded to the applications lodged under this provision and has not addressed the situation of stateless persons.³ In some cases, the applicants for statelessness status were re-detained for the purpose of administrative expulsion while their applications for statelessness status were pending. Therefore, trust in this procedure was considered by the interviewed persons to be low.

² UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, available at: <https://www.refworld.org/docid/3ae6b3840.html>.

³ For more recent changes in the MoI practice, please see the foreword and the textbox inserted in the legal part of the study. (UNHCR, June 2020)

The unresolved legal status had a considerable impact on the lives of stateless persons. Falling into an irregular situation and being undocumented prevented stateless persons from accessing the job market, which consequently affected their self-reliance and increased the risk of losing their housing. Stateless persons were often dependent on irregular work, lived in temporary accommodation or became homeless. While working irregularly, they were vulnerable to exploitation and poor working conditions. These undesirable circumstances were further exacerbated by the lack of legal protection. Furthermore, the lives of stateless persons were significantly affected by the lack of personal documents and the inability to prove their identity. This was an obstacle to accessing a number of rights and even basic services including, for example, the delivery of official correspondence.

Stateless persons interviewed for this study who were without a stable residence permit were prone to being repeatedly deprived of their liberty as part of the authorities' unsuccessful efforts to expel them from the country. Several stateless persons interviewed in this study described situations where, due to the impossibility to resolve their legal status, they fell into a vicious circle of receiving an administrative expulsion order, being detained or eventually being sentenced to expulsion and placed into custody with a view to removal. As a consequence, they lived in a constant fear of detention and/or removal.

The uncertain situation had a significant and often distressing effect on the private and family lives of stateless persons. This translated into tensions arising in relationships, permanent concerns, living in fear and an impossibility to plan for the future. The basic life strategies of most stateless persons interviewed during the research revolved around efforts to provide for their basic needs and to have secure housing. Other aspirations became secondary. They postponed starting a family. Other individual and social needs often remained unfulfilled as well. The study revealed that, combined, these circumstances presented a significant psychological burden. Many of the interviewed persons struggled with stress and anxiety, insomnia and other symptoms.

The fact that a person is stateless created barriers to forming social relationships. Some interviewed persons perceived their status as a stigma and avoided talking to others and explaining their situation as they were usually met with misunderstanding. Long-term exposure to this situation ultimately had a negative impact on the self-perception and identity of some of the interviewed stateless persons. Persons interviewed throughout the study described their feelings of exclusion, marginalisation, invisibility and a lack of support in life. They found it difficult to access their rights and perceived the unfairness of the situation they happened to be in and which they had not caused.

1 INTRODUCTION

1.1 Purpose of the report and context

The purpose of this study is twofold. First, it examines the Czech legal and institutional framework in relation to international standards pertaining to statelessness. Second, the study maps the practical implications for stateless persons living in the country by means of their personal testimonies and stories. The gathered data and personal accounts build a compelling image which serves as a basis for the main findings and recommendations.

Issues related to the lives and status of stateless persons have so far received little attention by the expert community in the Czech Republic, be it the relevant authorities, academia or civil society. As the research behind this study is the first of its kind in the Czech Republic, the present study is necessarily an exploratory one. The research is based on a qualitative methodology, analysing testimonies of selected stateless persons. The results presented in the study are primarily based on the information gained through these interviews. Alongside this, the relevant legislative framework and the available statistical data on stateless persons in the Czech Republic are examined with a view to placing the results of the qualitative research in the wider context.

1.2 Methodology

A qualitative method based on an analysis of semi-structured interviews was employed in the research.

The selection of participants from amongst stateless persons was based on two main criteria determined in advance. The first criterion was that the person's situation was assessed as stateless according to the definition of the 1954 Convention, and in some cases even confirmed in their identity documents. The second criterion, ensuring the diversity of the interviewed sample, was the duration of their statelessness. In this respect, the stage of a person's life when statelessness came into play was also taken into consideration: statelessness from birth, for a period longer than 20 years, or for a period shorter than 20 years. At least four interviewees were included in each category. As the qualitative method and the context of the study show, the semi-structured interviews were not held with a representative sample of the stateless population in the country. Their purpose was to show the presence, different aspects and mainly human face of statelessness.

This part of the research consisted of 13 interviews with a total of 15 stateless persons.⁴ Of these, 12 persons were male and three female. According to their own statements, the interviewed persons came from Georgia, Kazakhstan, Latvia, Iraq, Iran, Russia and Ukraine. Further interviews were conducted with persons of Palestinian origin who resided in Syria, Saudi Arabia and Lebanon. One participant was born in the Czech Republic. Two participants were deprived of liberty and the interviews were, thus, conducted in detention centres for foreign nationals.

⁴ Two interviews involved married couples.

Prior to the interviews, questions based on the following topics were defined:

Table 1 Thematic issues

Issues covered in interviews with stateless persons
Migration background and the individual's current situation
Circumstances of becoming stateless
Self-perception
Impact of statelessness on daily life
Possibilities of resolving the situation and efforts made to date
Experience with detention
Assistance, identity and relationships with the local population.

Interviews with all participants were conducted during the period between **July and November 2018**. When analysing the interviews, the method of descriptive coding and sub-coding⁵ was used in combination with a narrative analysis. Moreover, administrative decisions and court decisions provided by the participants were used as a secondary source in the analysis of the interviews.

⁵ J. Saldaña, *The coding manual for qualitative researchers*, London: SAGE, 2006.

2 STATELESSNESS ACROSS THE GLOBE AND UNHCR'S ENGAGEMENT WITH STATELESSNESS

Statelessness remains a global problem with millions of persons living without nationality in the world today.⁶ A significant number of those affected are children not recognized as citizens by any State and pushed into a legal limbo and a life of exclusion.

2.1 Defining a stateless person

The definition of a “stateless person” is set out in Article 1 (1) of the 1954 Convention, which provides that a “stateless person” is “a person who is not considered as a national by any State under the operation of its law”. The International Law Commission has concluded that the Article 1 (1) definition of a “stateless person” is part of customary international law.⁷ The present report focuses on persons falling under this definition.⁸

“A national” refers to a formal bond between a person and the State, which does not have to be an effective or genuine link.⁹ To determine whether an individual is considered as a national or not, it is not only necessary to look at the nationality laws of the States to which a person might have links, but also to the practices of the States in applying or implementing those laws.¹⁰ Moreover, a person’s nationality must be assessed at the time of determination of eligibility under the 1954 Convention, which is neither a historic nor a predictive exercise.¹¹ This means that for the determination of whether a person is stateless, it is not relevant that that person is in the process of naturalizing or has the option to acquire the nationality of a certain State. If, at the time of determination, that person is in the process of losing, being deprived of or renouncing a nationality, the person is still a national. Furthermore, when statelessness results from voluntary renunciation of nationality, the person may not be excluded from the protection of the 1954 Convention.¹²

In the context of the Czech Republic, the categories of persons registered as of “unknown nationality” are also relevant when examining approaches and challenges related to statelessness. They are thus included in the study.

⁶ For more information, please see UNHCR, *Global Trends: Forced Displacement in 2017*, 22 June 2018, available at: <https://www.refworld.org/docid/5b2d1a867.html>.

⁷ See the International Law Commission, *Draft Articles on Diplomatic Protection with Commentaries*, 2006, p. 49 (stating that the Article 1 definition can “no doubt be considered as having acquired a customary nature”), available at: <http://www.refworld.org/docid/525e7929d.html>.

⁸ The UNHCR *Handbook on Protection of Stateless Persons* explains that “persons who fall within the scope of Article 1(1) of the 1954 Convention are sometimes referred to as ‘de jure’ stateless persons,” UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <https://www.refworld.org/docid/53b676aa4.html>, para. 7. Individuals who have a nationality but are outside the country of their nationality and are denied diplomatic and consular protection accorded to other nationals by their State of nationality have been referred to as “de facto” stateless. See UNHCR, *Expert Meeting – The Concept of Stateless Persons under International Law (“Prato Conclusions”)*, May 2010, pp. 5-8, available at: <http://www.refworld.org/docid/4ca1ae002.html>. The term “de jure” is not found in any international treaty and is not used in this report, yet it must be emphasized that the present report does not include “de facto” stateless persons.

⁹ UNHCR, *Handbook on Protection of Stateless Persons*, cited above, para. 54.

¹⁰ UNHCR, *Handbook on Protection of Stateless Persons*, cited above, paras. 23-24.

¹¹ UNHCR, *Handbook on Protection of Stateless Persons*, cited above, para. 50.

¹² UNHCR, *Handbook on Protection of Stateless Persons*, cited above, para. 51.

2.2 Causes of statelessness

Statelessness can be caused by numerous factors and can occur in migratory situations. Most stateless persons, however, have never crossed any borders and find themselves without a nationality in the country in which they have been long-term residents or in their country of birth. Some causes are of a legal technical nature, for example where statelessness is caused by gaps in nationality laws or conflicts between nationality laws. States determine their own nationality laws, within certain limited restrictions imposed by international law and international human rights law. The two main legal principles governing States' grant of nationality at birth are *jus sanguinis* (citizenship by descent) and *jus soli* (citizenship by birth in the territory). Conflicts in these laws are one of several types of conflicts of law giving rise to situations that can render a child stateless. For example, a child born in the territory of a *jus sanguinis* State to parents with nationality of a *jus soli* State would encounter problems obtaining any nationality if the national legislation of the respective two States do not contain any safeguards that would allow such a child to obtain citizenship. Statelessness can also occur later in life. Some legal systems provide for mechanisms of automatic loss of nationality, for example after a long absence from the territory. Some States require that a person renounce his or her previous nationality before acquiring the nationality of that State. Withdrawal of nationality can also lead to statelessness if there is no adequate safeguard in place to prevent statelessness.

Another major cause of statelessness relates to the dissolution and separation of States, disputes about borders, transfer of territory between States and the creation of new States. In Europe, many people were left stateless after the dissolution of the Soviet Union and the Socialist Federal Republic of Yugoslavia.

In addition to or underlying the aforementioned causes of statelessness is discrimination in nationality law or in practice against certain parts of the population, mostly from minorities,¹³ and arbitrary deprivation of nationality, which contributes significantly to the creation or perpetuation of statelessness. Based on, for example, ethnicity or religious beliefs, a certain group within a State or populations living across multiple States are sometimes denied or deprived of nationality. Examples of such populations are the Rohingya in Myanmar, the Bidoon in the Arab Gulf States and parts of the Roma population in Europe.

Discrimination on the ground of gender can also be a cause of statelessness. In some nationality laws, women are not able to pass their nationality on to their children. Moreover, women may lose their nationality upon marriage or upon dissolution of the marriage. Women's inability to transmit their nationality to their children is especially problematic in cases where children are born out of wedlock or where the father is unknown, has passed away, has left, is stateless or is a foreigner who is unable to transmit his own nationality or is unwilling to take the necessary administrative steps to do so. Today, 27 States still discriminate against women in their laws regarding the conferral of nationality to children. These countries are located in almost all parts of the world, the majority of which can be found in the Middle East and North Africa and sub-Saharan Africa.¹⁴

2.3 Consequences of statelessness

Most stateless persons encounter many difficulties in every aspect of daily life. It is often the case that stateless persons do not enjoy their basic human rights. Even though the enjoyment of fundamental human rights is not formally dependent on citizenship status, many States only extend human rights protection to their nationals or to persons who reside lawfully in the country, which is not always the case for stateless persons.

Stateless persons may face obstacles accessing education or health care services, entering the labour market, travelling abroad, or owning land or other property. Stateless persons may not be able to register the birth of their

¹³ For more information, please see UNHCR's report "*This is Our Home*" *Stateless Minorities and their Search for Citizenship*, 3 November 2017, available at: <https://www.refworld.org/docid/59e4a6534.html>.

¹⁴ UNHCR, *Background Note on Gender Equality, Nationality Laws and Statelessness* 2014, 8 March 2014, available at: <http://www.refworld.org/docid/532075964.html>.

child, obtain an identity document, open a bank account, inherit wealth or get legally married. Such social and economic exclusion renders stateless persons vulnerable to abuse and destitution and many stateless populations belong to the most marginalized and vulnerable groups worldwide.

In addition, stateless persons may be detained for prolonged or repeated periods in order to be deported to countries they came from or of former habitual residence, because they have no identity documents and/or are considered to be irregularly in the country. Yet, as non-nationals, none of these countries have the obligation to accept them and so there is nowhere they can be returned to.

2.4 UNHCR's engagement with statelessness

As the organization mandated by the United Nations to protect refugees, UNHCR has been involved in statelessness issues and with stateless persons since it began operations in 1951 due to the number of refugees affected by statelessness.¹⁵ In this capacity, UNHCR was involved in the drafting of the 1954 Convention. To undertake the functions foreseen by Articles 11 and 20 of the 1961 Convention on the Reduction of Statelessness ("1961 Convention"),¹⁶ namely to examine the cases of persons who claim the benefit of that Convention and to assist them in presenting their claims to the authorities under Article 11 of that Convention, UNHCR's mandate was expanded to cover persons falling under the terms of that Convention by General Assembly Resolutions 3274 (XXIX) of 1974 and 31/36 of 1976. The Office was entrusted with responsibilities for stateless persons generally by General Assembly Resolution 50/152 of 1995, which endorsed UNHCR Executive Committee Conclusion 78. Subsequently, in Resolution 61/137 of 2006, the General Assembly endorsed Executive Committee Conclusion 106 which sets out four broad areas of responsibility for UNHCR: the identification, prevention and reduction of statelessness and the protection of stateless persons.¹⁷

The fiftieth anniversary of the 1961 Convention in 2011 and the sixtieth anniversary of the 1954 Convention in 2014 provided a renewed impetus for the international community, supported by UNHCR, to address statelessness.¹⁸ In November 2014, UNHCR launched a 10-year campaign to end statelessness by 2024 and the accompanying Global Action Plan, which establishes a guiding framework of 10 action to be undertaken by States, with the support of UNHCR and other stakeholders. It seeks greater political commitment to resolve existing major situations of statelessness, to prevent new cases of statelessness from emerging, and to better identify and protect stateless populations.¹⁹

¹⁵ UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V), para. 6(A)(ii), available at: <http://www.refworld.org/docid/3ae6b3628.html>; and the 1951 Refugee Convention, Article 1(A)2. Both sources refer to stateless persons who meet the criteria of the refugee definition.

¹⁶ UN General Assembly, *Convention on the Reduction of Statelessness*, 30 August 1961, United Nations, Treaty Series, vol. 989, p. 175, available at: <https://www.refworld.org/docid/3ae6b39620.html>.

¹⁷ UNHCR, *Handbook on Protection of Stateless Persons*, cited above, para. 4.

¹⁸ Including the Ministerial Event in Geneva in December 2011 at which a number of States made pledges. See, UNHCR, *Ministerial Intergovernmental Event on Refugees and Stateless Persons – Pledges 2011*, October 2012, available at: <https://www.refworld.org/docid/50aca6112.html>.

¹⁹ UNHCR, *Global Action Plan to End Statelessness*, 4 November 2014, available at: <https://www.refworld.org/docid/545b47d64.html>.

Pursuant to its mandate responsibilities to address statelessness, in June 2014, UNHCR has issued interpretative legal guidance for governments, NGOs, legal practitioners, decision-makers, the judiciary and others working on statelessness on the definition of a stateless person, procedures for determination of statelessness and the status of stateless persons under national law in the form of the *Handbook on Protection of Stateless Persons* (“*UNHCR Handbook*”).²⁰ UNHCR’s guidance concerning the prevention and reduction of statelessness continues to be dealt with in separate guidelines.²¹

The present study is a part of UNHCR’s endeavours to place statelessness issues at the centre of its advocacy work in the Czech Republic.

²⁰ UNHCR, *Handbook on Protection of Stateless Persons*, cited above.

²¹ UNHCR, *Guidelines on Statelessness No. 4: Ensuring Every Child’s Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness*, 21 December 2012, HCR/GS/12/04, available at: <http://www.refworld.org/docid/50d460c72.html>.

3 LEGAL ANALYSIS OF STATELESSNESS IN THE CZECH REPUBLIC

3.1 The international and regional legal framework

At the international level, two Conventions deal specifically with statelessness: the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.²²

The 1954 Convention is the primary international instrument aimed at the protection of stateless persons. It establishes the legal definition of a “stateless person” and accords a core set of principles for their treatment. The 1954 Convention entered into force in 1960 and currently has 94 State Parties.²³ The Czech Republic acceded to the 1954 Convention on 19 May 2004 and made a reservation to Articles 27 and 28. While not all its provisions have been incorporated in national legislation, the Convention has direct effect in the national law.

The 1961 Convention is the leading international instrument that provides rules for the conferral and withdrawal of citizenship to prevent and reduce cases of statelessness. By setting out rules to limit the occurrence of statelessness, the Convention gives effect to Article 15 of the Universal Declaration of Human Rights, which recognizes that “everyone has the right to a nationality.” The 1961 Convention entered into force in 1975 and presently has 75 State Parties.²⁴ The Czech Republic acceded to the 1961 Convention on 19 December 2001.

UNHCR’s *Guidelines on Statelessness No. 4 (“Guidelines”)*²⁵ address the prevention of statelessness at birth under the 1961 Convention. Developed on the basis of consultations with international experts and a broad range of stakeholders, the UNHCR *Handbook and the Guidelines* will be used in the present report to elucidate the obligations and best practices flowing from the respective Conventions.

Other international human rights instruments contain provisions relevant to issues relating to nationality and statelessness. Instruments such as the International Covenant on Civil and Political Rights (ICCPR),²⁶ the Convention on the Rights of the Child (CRC),²⁷ the Convention on the Elimination of Discrimination Against Women (CEDAW),²⁸ and the International Convention on the Elimination of Racial Discrimination (ICERD)²⁹ contain provisions on the right to a nationality,³⁰ on equal treatment of men and women³¹ and on the prohibition of discrimination.³² The Czech Republic is party to all the above human rights treaties.

²² UN General Assembly, *Convention relating to the Status of Stateless Persons*, New York, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117 available at: <https://www.refworld.org/docid/3ae6b3840.html>; UN General Assembly, *Convention on the Reduction of Statelessness*, 30 August 1961, United Nations, Treaty Series, vol. 989, p. 175, available at: <https://www.refworld.org/docid/3ae6b39620.html>.

²³ As of December 2018. UN Treaty Collection database, available at: https://treaties.un.org/Pages/Treaties.aspx?id=5&subid=A&clang=_en.

²⁴ As of December 2018. UN Treaty Collection database, available at: https://treaties.un.org/Pages/Treaties.aspx?id=5&subid=A&clang=_en.

²⁵ UNHCR, *Guidelines on Statelessness No. 4: Ensuring Every Child’s Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness*, cited above.

²⁶ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html>.

²⁷ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <https://www.refworld.org/docid/3ae6b38f0.html>.

²⁸ UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <https://www.refworld.org/docid/3ae6b3970.html>.

²⁹ UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195, available at: <https://www.refworld.org/docid/3ae6b3940.html>.

³⁰ Art. 24 ICCPR, Art. 7 CRC, Art. 9 CEDAW, Art. 5 d) iii) ICERD.

³¹ Arts. 3 and 23 ICCPR, Arts. 2 a) and 3 CEDAW.

³² Arts. 2 and 26 ICCPR, Art. 2 CRC.

In addition to these instruments, the 1951 Convention Relating to the Status of Refugees expressly applies to stateless refugees, as does the 1967 Protocol Relating to the Status of Refugees (hereinafter collectively referred to as the “1951 Convention”) by implication.³³ A stateless person who is also a refugee must benefit from the protection of the 1951 Convention and international refugee law, which offer a higher protection standard.³⁴ The Czech Republic succeeded to the 1951 Convention on 11 May 1993. At the European level, the European Convention on Nationality (ECN), which entered into force in 2000, and currently has 21 State Parties is of particular relevance to the issue of statelessness.³⁵ The Czech Republic ratified the ECN on 19 March 2004. In its Article 4, the ECN states that the rules on nationality of each State Party shall be based on, among other things, the principle that statelessness shall be avoided. While broader in scope, covering a range of questions relating to the acquisition and loss of nationality, this instrument contains safeguards similar to those found in the 1961 Convention. Article 6 (2) of the ECN provides a safeguard against statelessness at birth similar, though not identical, to that of the 1961 Convention. Also, Article 6 (1) (b) provides that foundlings are to acquire nationality if they would otherwise be stateless. In addition, Article 6 (4) (g) determines that the State Party shall facilitate the acquisition of its nationality to stateless persons. Finally, Article 7 of the ECN, on the loss of nationality *ex lege* or at the initiative of a State Party, contains a safeguard against statelessness.

In addition to the ECN, the European Convention on Human Rights and Fundamental Freedoms (ECHR) is also increasingly relevant to the prevention of statelessness and the protection of stateless persons. In general, the ECHR sets out rights to be enjoyed by all persons within a State’s jurisdiction, whether they are the State’s own nationals, foreign nationals or stateless persons. Although the ECHR does not explicitly protect the right to a nationality, the European Court of Human Rights (ECtHR) has recognized in its jurisprudence that the impact of the denial of citizenship on a person’s social identity brings it within the scope of Article 8 of the ECHR, which enshrines the right to respect for private and family life.³⁶ According to the ECtHR, States have a positive obligation under Article 8 to provide an effective and accessible procedure or a combination of procedures enabling stateless persons to have the issues of their stay and status determined with due regard to their private-life interests.³⁷

3.2 Legislation concerning the identification and protection of stateless persons

When acceding to the 1954 Convention, the Czech Republic made a reservation (referred to as a “declaration”) according to which identity papers pursuant to Article 27 and travel documents pursuant to Article 28 shall be issued only to stateless persons with a valid permanent residence in the Czech Republic. This reservation has consequences on the scope of potential beneficiaries of rights under the 1954 Convention as well as their applicability to stateless persons living in the Czech Republic. Permanent residence can only be obtained after completing five years of legal residence in the country and applicants, amongst other prescribed conditions, must have a valid passport in order to file the application.³⁸ The Czech Republic’s reservation further concerns Article 23 on public relief and assistance, and Article 24 (1) (a) on remuneration and working conditions. With regards to these two provisions, the reservation stipulates that they shall be applied solely to the extent provided by the national legislation.

³³ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, Article 1(A)(2) (“Definition of the term ‘refugee’”), available at: <https://www.refworld.org/docid/3be01b964.html>.

³⁴ UNHCR, *Handbook on Protection of Stateless Persons*, cited above, para. 12.

³⁵ See Council of Europe’s Treaty Office, available at: <http://goo.gl/k7bvWl>.

³⁶ *Genovese v. Malta*, Application no. 53124/09, Council of Europe: European Court of Human Rights, 11 October 2011, available at: <https://www.refworld.org/cases,ECHR,509ea0852.html>.

³⁷ *Hoti v. Croatia*, Application no. 63311/14, Council of Europe: European Court of Human Rights, 26 April 2018, available at: <https://www.refworld.org/cases,ECHR,5ae1b4e94.html>, para. 137.

³⁸ Section 70 (1)(b) of Law No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic, as amended. Pursuant to its Section 108, a passport or another international travel document or travel identity card. Such documents are only issued by Czech administrative bodies under certain specific conditions defined in Section 114 of the Residence of Foreign Nationals Act.

The Czech translation of the 1954 Convention, as published in the Collection of International Treaties, contains several linguistic discrepancies.³⁹ The 1954 Convention, as well as the 1951 Refugee Convention, are based on the concept of a gradual increase of rights guaranteed in relation to the nature of a person's stay and link to the State's territory. In this respect, the 1954 Convention distinguishes between the status of stateless persons *lawfully in* and *lawfully staying* in the territory of the Contracting State. However, the Czech translation uses stateless persons "lawfully in" the territory of the State in both cases. Another inaccuracy concerns the translation of the definition of a stateless person under Article 1 of the 1954 Convention. The Czech language version does not sufficiently capture the meaning of the term [*under*] *operation of its law* as it only refers to the *laws* of the State but disregards the aspect of the practical application (*operation*) of these laws, which is fundamental to the definition of a stateless persons being a mixed question of fact and law.⁴⁰

Czech national legislation does not provide a legal status for persons recognized as stateless. The content of and the obligations under the international treaties are, however, part of the Constitutional order of the Czech Republic. Article 10 of the Czech Constitution recognizes the primacy of international treaties in case of conflict with national legislation. Therefore, under certain circumstances, the aforementioned absence of a regulation of the status of stateless persons can be overcome by direct application of the 1954 Convention. Nonetheless, the lack of implementation of international obligations towards stateless persons has a considerable impact on the effective realisation of their rights as well as on the predictability and legality of administrative and judicial procedures which lack clear legal guidelines in this area.

Czech legislation has no legal provisions reflecting the **definition** of a stateless person pursuant to Article 1 of the 1954 Convention. According to the Law on the Residence of Foreign Nationals (hereinafter the "Aliens Act"), stateless persons fall under the general category of foreigners, without their specific situation taken into account.

Furthermore, stateless persons do not benefit from any special legal regulation concerning their **residence status** in the Czech Republic. They are obliged to rely on the existing types of residence permits and go through the respective administrative procedures to obtain them. This means that they must comply with the same legal requirements as nationals of other countries which may prove problematic, *inter alia*, in respect of Article 6 of the 1954 Convention. According to this provision the term "in the same circumstances" implies that any requirements imposed on a particular individual in order to enjoy certain right must be fulfilled, except for the requirements which, by their nature, cannot be fulfilled by a stateless person. This rule covers situations when the law requires stateless persons to submit documents, for example valid travel documents, which they do not and cannot possess. They are, thus, unable to meet the conditions for obtaining a residence permit.⁴¹

The Czech Republic does not have a dedicated **statelessness determination procedure** (SDP) set out in law. Instead, there is only a short provision in Section 8 (d) of the Asylum Act, effective from 15 December 2015,⁴² confirming the competence of the Mol to decide on whether one fulfils the definition of a stateless person according to the 1954 Convention. However, there are no procedural provisions governing decision-making on the status of stateless persons nor provisions regulating the legal status of applicants during the proceedings and of stateless persons after the final decision is rendered.⁴³ This may result in the necessity to seek *ad hoc* solutions.

³⁹ Communication of the Ministry of Foreign Affairs No. 108/2004 Coll. of International Treaties, on the adoption of the Convention Relating to the Status of Stateless Persons.

⁴⁰ UNHCR, *Handbook on Protection of Stateless Persons*, cited above, paras. 22-24.

⁴¹ The European Court of Human Rights underlined this aspect of Article 6 of the 1954 Convention in the judgment *Hoti v. Croatia*, cited above, para. 137.

⁴² Amended by Act No. 314/2015 Coll.

⁴³ According to the explanatory memorandum to Act No. 314/2015 Coll., it follows that proceedings on international protection are to be applied **by analogy**: "(d) establishes the competence of the Ministry to decide on applications made pursuant to the Convention on the Status of Stateless Persons for which international protection mechanisms are also applied. It is not appropriate to create special procedure for such rare requests; as mentioned above, the international protection mechanisms shall be used, including the exclusion of certain provisions of the Code of Administrative Procedure, as foreseen in Section 9, while the application of the Code of Administrative Procedure as a general rule shall be the basis."

Since January 2019, the Ministry of the Interior started issuing decisions on applications for the determination of statelessness. In most decisions, the Mol confirmed that the respective applicant was a stateless person according to the definition in the 1954 Convention. However, there are cases of individuals who lodged their application over a year or two ago and who have received no decision to date.

That being said, in the current situation and under the current legislation, the issuance of decisions certifying the applicants' statelessness arguably has **no impact on their legal status**. These decisions are limited to attesting that these persons are stateless within the meaning of the definition in the 1954 Convention but do not provide the applicant with any legal status or residence rights. The stateless persons who are, at the time of lodging their application under Section 8 (d) of the Asylum Act, in an irregular situation, thus, **remain in an irregular situation, without any effective access to the rights under the 1954 Convention**, as described in the study, even after a positive decision on their status has been issued.

When delivering these decisions, the Mol advises the applicants that no rights, including no residence rights, ensue from the respective decision and refers them to the Foreign Police in respect of the further steps to be taken to address their residence situation. The Foreign Police, thereupon, issues these individuals with a standardised (often repeated) **decision on administrative expulsion**. Nevertheless, as part of the administrative expulsion proceedings, the Mol issues individuals recognised as stateless persons with a **binding opinion on the impossibility to depart from the Czech Republic** and holds that there are impediments to leaving the Czech Republic due to the State's international obligations.⁴⁴

Based on the 'negative binding opinion' issued in the proceedings on administrative expulsion, **an individual can obtain a visa for the purpose of tolerated stay** under Section 33 (3) of the Act on the Residence of Foreign Nationals.⁴⁵ During the proceedings on the application for the tolerated stay visa, the applicant does not have the right to stay in the territory and has no other rights, such as social rights. The tolerated stay visa constitutes **the most precarious resident status** under the Act on the Residence of Foreign Nationals. To illustrate, the tolerated stay visa is a type of visa permitting stay for more than 90 days with a maximum of one year. After that period, the visa holder has to apply for its extension or for a transition to a long-term residence permit for the purpose of tolerated stay.⁴⁶ However, there is no right to apply for another type of long-term visa or long-term stay in the territory.⁴⁷ Similarly, the holder of a tolerated stay visa has no right to receive an 'alien's passport',⁴⁸ to work or to carry out a gainful activity,⁴⁹ or to participate in public health insurance.⁵⁰ The tolerated stay visa is automatically cancelled once its holder leaves the territory of the Czech Republic.⁵¹ On the basis of the *UNHCR Handbook*, such a resident status fails to meet the UNHCR's recommendations concerning a minimum of two years that States

⁴⁴ A binding opinion of the Ministry of the Interior is a mandatory part of proceedings on administrative expulsion. See, Section 120a of the Act on the Residence of Foreign Nationals (Act No 326/1999 on the Residence of Foreign nationals in the territory of the Czech Republic and amending certain laws, as amended).

⁴⁵ Act No 326/1999 on the Residence of Foreign Nationals in the territory of the Czech Republic and amending certain laws, as amended.

⁴⁶ Sections 33 (5) and 42 of the Act on the Residence of Foreign Nationals.

⁴⁷ An exception to this is where such an individual becomes a family member of an EU or Czech citizen. The option to apply for a temporary stay of a family member further to Directive 2004/38/EC is not affected (see, Section 87b of the Act on the Residence of Foreign Nationals). Similarly, said individual can apply, no earlier than after six months of a stay under a tolerated stay visa, for a long-term stay for the purpose of family reunification if the individual meets the requirements of Council Directive 2003/86/EC on the right to family reunification of third country nationals who stay in the European Union (see, Section 42a (5) of the Residence of Foreign Nationals Act).

⁴⁸ The holders of the tolerated stay visa can only be issued with a travel identity card under Section 114 (6) (b) of the Act on the Residence of Foreign Nationals. However, the travel identity card is not an internationally recognised travel document and it is not possible to travel to most other countries solely with this card.

⁴⁹ Once the tolerated stay visa has been granted, its holder can seek to obtain a work permit (however, such permit is not automatically granted).

⁵⁰ The prohibition of participation in public health insurance means the need to pay for a commercial health insurance for foreign nationals. If an individual person does not have the required funds for this, they remain uncovered by health insurance, which constrains the availability of healthcare for them.

⁵¹ Section 62 (4) of the Act on the Residence of Foreign Nationals.

should grant to stateless persons in their territory⁵² and does not ensure a range of rights that stateless persons are entitled to under the 1954 Convention.⁵³ Hence it provides for a **significantly lower standard than the one accorded to recognised refugees.**

Thus, a decision **declaring statelessness status does not constitute access to the rights under the 1954 Convention** until the moment of obtaining a tolerated stay visa using the above-described procedure. Moreover, **the option of obtaining the tolerated visa is not available to all recognised stateless persons.** Individuals who have previously been sentenced to expulsion⁵⁴ do not have any opportunity to legalise their resident status despite their recognized statelessness. They are, therefore, **left permanently without access to the rights under the 1954 Convention.**⁵⁵

Thanks to the first case-law, developments have taken place in 2019 also in relation to **the legal status of applicants for the determination of statelessness status** which is not regulated in the Asylum Act. In March and April 2019, the Supreme Administrative Court of the Czech Republic issued two decisions on this issue.⁵⁶ In both cases the Court agreed with the appellants, i.e. the applicants for the determination of statelessness. The Supreme Administrative Court declared the action of the Mol, under which the Ministry had refused to grant legal status to the applicants during the proceedings on their applications under Section 8 (d) of the Asylum Act and had not responded to their requests to be issued with a certificate confirming that they were applicants for the statelessness status [‘applicant identity card’], to be unlawful.

The Supreme Administrative Court held that the **Mol was obliged to apply per analogiam the provisions of the Asylum Act on international protection not only in relation to the procedural aspects** of the proceedings on applications for determination of statelessness, conducted under Section 8 (d) of the Asylum Act, **but also in relation to the applicants’ rights.** The Court found that during the determination of statelessness proceedings, the Mol should have applied the Asylum Act and, *per analogiam* with its Section 57,⁵⁷ issue the applicants an applicant identity card. The court explicitly held that “it would be unfair if the defendant [Mol] had discretion to select only those provisions of the Asylum Act, which are convenient for it, [...] in other words to opt for procedural and substantive rules on an *ad hoc* basis, and thus not transparently.”⁵⁸ The Supreme Administrative Court supported its conclusion by referring to the Explanatory Memorandum of the Asylum Act, according to which in the proceedings on applications under Section 8 (d) of the Asylum Act “the mechanisms for the proceedings on international protection shall be used.”⁵⁹ It also referred to Article 25 of the 1954 Convention and the *UNHCR Handbook*, “according to which the rights under the Convention Relating to the Status of Stateless Persons are formulated almost identically with those under the Convention Relating to the Status of Refugees, and it is therefore

⁵² UNHCR recommends a residence permit valid for at least two years, although permits for a longer duration, such as five years, are preferable, while such permits should provide the possibility of facilitated naturalisation as prescribed by Article 32 of the 1954 Convention. UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, para. 148, available at: <https://www.refworld.org/docid/53b676aa4.html>.

⁵³ This is a standard afforded to persons lawfully staying in the territory of the respective State. See, UNHCR, *Handbook on Protection of Stateless Persons*, cited above, para. 150.

⁵⁴ This is frequently due to the impossibility to leave the Czech Republic further to an earlier imposed administrative expulsion, whereby the elements of the criminal offence of frustrating the execution of an official decision are found.

⁵⁵ Section 56 (1) (c) of the Act on the Residence of Foreign Nationals, under which a tolerated stay visa shall not be issued to persons recorded in the register of undesirable persons (which records, *inter alia*, people subject to administrative expulsion or a sentence of expulsion). This provision of the Act on the Residence of Foreign Nationals affords an exemption only to individuals to whom the Mol has issued, during proceedings on administrative expulsion, a ‘negative binding opinion’ on the possibility to depart from the Czech Republic. In cases of a sentence of expulsion, such binding opinions are not envisaged.

⁵⁶ The Supreme Administrative Court’s judgment of 12 March 2019, file no. 4 Azs 365/2018, and the judgment of 9 April 2019, file no. 7 Azs 488/2018, available, at: www.nssoud.cz.

⁵⁷ Section 57 (1) of the Asylum Act provides: “An international protection applicant identity card shall be issued by the Ministry to an applicant for international protection no longer than within 3 days of the provision of information in support of his/her application for international protection.”

⁵⁸ The Supreme Administrative Court’s judgment of 12 March 2019, file no. 4 Azs 365/2018, para. 9, and judgment of 9 April 2019, file no. 7 Azs 488/2018, para. 11.

⁵⁹ Explanatory memorandum for Act No 314/2015, which inserted the provisions of Section 8 (d) into the Asylum Act.

recommended that individuals awaiting a determination of statelessness receive the same standards of treatment as asylum-seekers.”⁶⁰

The implementation of the above-cited judgments in the practice of the Mol and its implications on the legal status of the applicants for the determination of statelessness under Section 8 (d) of the Asylum Act **is not yet clear. No information is available about whether the applicants have, in practice, access to the rights arising from the status of an applicant for international protection as per the judgments.** Such rights include the right to be covered by public health insurance, the right to be accommodated in the accommodation centres operated by the Refugee Facilities Administration or the right to work after six months from lodging the application. To date, it appears that the applicants for the determination of statelessness under Section 8 (d) of the Asylum Act do not yet enjoy these rights in practice. Only two of the applicants (several reminders were required for one applicant) were issued with an A4 document entitled the ‘applicant identity card’, which differs from the format of an applicant identity card normally issued to applicants for international protection. The document obtained by these applicants can serve for their basic identification and for proving their identity in various situations. However, it is not accompanied by any advice or explanation of their legal status and does not list the range of rights connected with the status of an applicant and attached to the identity card, which the Mol normally issues to applicants for international protection.

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National legislation governing **administrative expulsion** has been found to not reflect the safeguards related to the expulsion of stateless persons stipulated in Article 31 of the 1954 Convention. The Aliens Act regulates the matter of expulsion of foreign nationals in Section 119 et seq., where stateless persons are subject to the same grounds and conditions for administrative expulsion as other foreigners.⁶¹ The case law of the Supreme Administrative Court of the Czech Republic determined the above legal regulation to be incompatible with the 1954 Convention and confirmed the latter’s supremacy over the national law in individual cases.⁶²

Obligations enshrined in Article 31 of the 1954 Convention are not sufficiently reflected in the regulation of the **criminal sentence of expulsion** either. The Criminal Code stipulates that the expulsion order cannot be imposed if the nationality of the perpetrator has not been established.⁶³ However, according to domestic case law, this provision is not applicable to stateless persons.⁶⁴ Similarly, legal provisions on the waiver of the expulsion order do not offer any guidance for the criminal courts in relation to the determination of whether or not a person is stateless.⁶⁵ Effective application of Article 31 may, thus, be denied to some stateless persons.

A viable solution to the situation of stateless persons who cannot be expelled despite the efforts of administrative bodies is missing in the current legislation. These persons are not recognized by the Mol to have so-called “impediments to leaving the territory of the Czech Republic”,⁶⁶ which is a pre-condition to applying for a tolerated stay visa. Another barrier to obtaining this type of visa is that it can only be granted to persons not listed in the

⁶⁰ The Supreme Administrative Court’s judgment of 12 March 2019, file no. 4 Azs 365/2018, para. 9, and judgment of 9 April 2019, file no. 7 Azs 488/2018, para. 11.

⁶¹ Stateless persons are specifically concerned only by Section 121 of the Residence of Foreign Nationals Act, which stipulates the following: “If any other country expresses its consent to admit a stateless person, such person may be expelled by administrative expulsion to that country.” This provision, thus, merely defines practical aspects of administrative expulsion of stateless persons but does not contain a special regulation of the reasons and conditions of the expulsion in accordance with Article 31 of the 1954 Convention.

⁶² Cf. Judgement of the Supreme Administrative Court of the Czech Republic of 19 April 2018, Ref. No. 9 Azs 361/2017 – 33.

⁶³ Section 80 (3)(a) of Act No. 40/2009 Coll., the Criminal Code, as amended.

⁶⁴ Decision of the Czech Supreme Court of 16 December 2010, File No. 6 Tdo 1457/2010, published under No. 30/2011 Coll. of the Supreme Court.

⁶⁵ Section 350h (4) of Act No. 141/1961 Coll., on criminal court proceedings (Code of Criminal Procedure), as amended.

⁶⁶ Section 179 of the Aliens Act.

register of undesirable persons. However, persons with an administrative expulsion order or a criminal sentence of expulsion are listed in this register.

3.3 Legislation concerning the reduction and prevention of statelessness in the Czech Republic

The matter of acquiring nationality by stateless persons is regulated by Article 32 of the 1954 Convention, which provides that the Contracting States “shall as far as possible facilitate the assimilation and naturalisation of stateless persons. They shall in particular make every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings.” With a view to preventing and reducing new cases of statelessness, the UN negotiated the 1961 Convention on the Reduction of Statelessness.⁶⁷ The Czech Republic acceded to the 1961 Convention on 19 December 2001 with no reservations.⁶⁸

At the national level, the matter of acquisition and loss of Czech nationality is governed by the Law on the Czech Citizenship (“Citizenship Act”).⁶⁹ As a general rule, nationality is automatically acquired at birth if at least one parent has Czech nationality, no matter where the child is born. As to specific matters of stateless persons, while the Citizenship Act generally implements the obligations under the 1961 Convention, there are certain shortcomings.

According to Section 5 of the Citizenship Act, a child born in the territory of the Czech Republic, who would otherwise be stateless, automatically acquires Czech nationality by birth provided that both parents are stateless and at least one of them has a permit to reside in the Czech Republic for a period longer than 90 days at the time of the child’s birth.⁷⁰

Section 29 of the Citizenship Act regulates situations when a child born in the Czech territory, does not acquire nationality of the parents nor the Czech nationality under the provision of Section 5 described in the preceding paragraph. In such situation, the Czech nationality is granted to the child by the MoI only upon application, provided that at least one parent has a permit to reside in the Czech Republic for a period longer than 90 days at the time of the child’s birth.

The Czech Republic therefore provides for the granting of nationality to otherwise stateless children either by the operation of law and upon application, depending on the circumstances of the parents. Pursuant to Section 5 of the Citizenship Act, the first option is limited to children whose parents are stateless and at least one of them has a lawful long-term residence on the territory on the day of the child’s birth. Children born to parents who cannot transmit their nationality for other reasons than both being stateless themselves, have to lodge an application pursuant to Section 29 of the Act. However, the citizenship will only be granted when at least one of the parents has a lawful long-term residence on the territory on the day of the child’s birth. Such a requirement does not fall within the exhaustive list of reasons for which a nationality application can be refused according to Article 1 (2) of the 1961 Convention. It is, therefore, not compliant with the 1961 Convention.

Moreover, Section 29 (4) of the Citizenship Act provides for an additional condition according to which the MoI will not grant nationality to a child born in the Czech territory who has become stateless only as a consequence of the parent’s failure, without acceptable reasons, to take the necessary steps in relation to the authorities of

⁶⁷ The Czech translation of the Convention uses the term “*bezdomovectví*” [homelessness] to describe the lack of citizenship of a nation state; “*apatrismus*” is another term used in the Czech environment. However, the Czech version of this study avoids the term “*bezdomovectví*” for its obviously misleading nature, since the primary meaning of the word in modern Czech describes homeless people living on the street; in English the word for “homelessness” is clearly different from “statelessness”.

⁶⁸ Communication of the Ministry of Foreign Affairs No. 43/2002 Coll. of International Treaties, on the accession of the Czech Republic to the Convention on the Reduction of Statelessness.

⁶⁹ Act No. 186/2013 Coll., on Czech citizenship and on amendments to certain acts, as amended.

⁷⁰ According to the Explanatory Memorandum to the Citizenship Act, the requirement of a residence permit of at least one parent should prevent situations when a child would be born in the Czech territory but the parents would only travel through or reside in the territory irregularly.

his/her country of nationality which would ensure that the child obtains citizenship of that country upon birth.⁷¹ This condition is also not included in the exhaustive list of reasons for which such an application can be refused according to Article 1 (2) of the 1961 Convention. Therefore, Section 29 (4) of the Citizenship Act is not compliant with the 1961 Convention.

Article 2 of the 1961 Convention concerning foundlings is implemented in two provisions of the Citizenship Act. The first provision relates to children younger than three years found in the Czech territory whose identity could not be established. Such children acquire Czech nationality on the day they were found, unless it would be discovered within six months that they are nationals of another state.⁷² The second provision relates to foundlings older than three years whose identity could not be established due to their young age or disability. These children would acquire Czech nationality upon application filed by a guardian, unless it would be discovered within six months from when they were found that they are nationals of another state.⁷³ There is no age limit for foundlings to acquire nationality and the provisions are in line with the standards set out in the 1961 Convention.

The Citizenship Act does not allow for the loss of nationality on the ground of acquiring nationality of another State. Dual nationality is, thus, accepted. The only way to lose Czech nationality is by renunciation, i.e. a declaration by a person to voluntarily renounce nationality. Even then, a person who renounces Czech nationality will lose it only after providing a document proving that he has acquired nationality of another State.⁷⁴ This provision is in line with Article 7(1)(a) of the 1961 Convention.

The duty to facilitate naturalisation of stateless persons defined in Article 32 of the 1954 Convention is included in the Citizenship Act and is formulated in the same way as in the case of recognized refugees. The facilitation resides in the fact that the standard requirement of five years of permanent residence prior to applying for the citizenship may be waived⁷⁵ as well as the requirement that a person has not represented a significant burden on the social welfare system in the past three years.⁷⁶

⁷¹ Section 29 (4) of the Czech Citizenship Act.

⁷² Section 10 of the Czech Citizenship Act.

⁷³ Section 30 of the Czech Citizenship Act.

⁷⁴ Section 40 (9) of the Czech Citizenship Act.

⁷⁵ Section 15 (1)(h) of the Czech Citizenship Act.

⁷⁶ Section 15 (5) of the Czech Citizenship Act.

4 STATISTICAL OVERVIEW

OF THE STATELESS POPULATION IN THE CZECH REPUBLIC

In official national statistics, stateless persons are recorded as foreigners as defined in the Aliens Act. The data on foreigners are gathered by the authorities only up until Czech nationality is granted. The data concerning stateless persons in the Czech Republic presented below⁷⁷ are based on statistical records taken from the publicly available governmental sources described below.

The Czech Republic lacks one central register containing all information on foreign nationals living in the Czech Republic. Basic and most up-to-date data are provided by the MoI.⁷⁸ Summary statistics on the number of foreign nationals are also regularly published by the Czech Statistical Office (CSO). CSO draws its data from the MoI and other ministries and departments in order to publish them in the cross-sectional statistical report entitled “Foreigners”.⁷⁹ The population census represents another important source of statistical data.

Extracting and compiling relevant data from several registers that primarily serve the needs of individual ministries has proven problematic. In some cases, the numbers of foreign nationals differ across various sources (registers) even where the definition is identical.⁸⁰ Moreover, these statistics only provide information on foreign nationals regularly staying in the Czech Republic, i.e. who have a certain type of residence permit. Some information about persons irregularly staying in the Czech Republic can be derived from annual status reports on migration and integration of foreigners in the Czech Republic⁸¹ published by the MoI. However, its scope is confined to detected irregular migrants which represents only a small part of the overall scope of irregular migration. A more complete picture of irregular migration remains estimated by specialised surveys and expert opinions.⁸²

⁷⁷ Their visualisations have been produced by the authors of this study.

⁷⁸ The Ministry maintains two main registers, i.e. the Foreigner Information System (FIS) and the Population Register Information System (PRIS) [in Czech: *Cizinecký informační systém (CIS) and Informační systém evidence osob (ISEO)*].

⁷⁹ ČSÚ, *Průřezová statistika Cizinci [Cross-sectional Statistics “Foreigners”(CSO)]*, Czech Statistical Office [online], 2018, available at: <https://www.czso.cz/csu/cizinci/cizinci-pocet-cizincu>.

⁸⁰ Y. Leontiyeva, D. Chytil, *Statistiky a výzkumy imigrantů aneb jak srovnávat nesrovnatelné [Statistics and Surveys of Immigrants: Comparing the Incomparable]*, in J. Krejčí, Y. Leontiyeva (eds.) *Cesty k datům. Zdroje a management sociálněvědních dat v České republice [Road to Data: Sources and Management of Social Science Data in the Czech Republic]*, Prague: Sociologické nakladatelství SLON, 2012, p. 352 (in Czech).

⁸¹ According to the report, 4,738 irregular migrants were detected in 2017, representing a decrease of 9.9% compared to 2016.

⁸² ČSÚ, *Koncepce výběru a zpracování statistických údajů [Concept of Collecting and Processing of Statistical Data]* op. cit. D. Topinka, *Uvznutí v nelegálnosti [Trapped in Illegality]*, *Sociální studia [Social Studies]*, 3 (1), 2006, pp. 73–88 (in Czech).

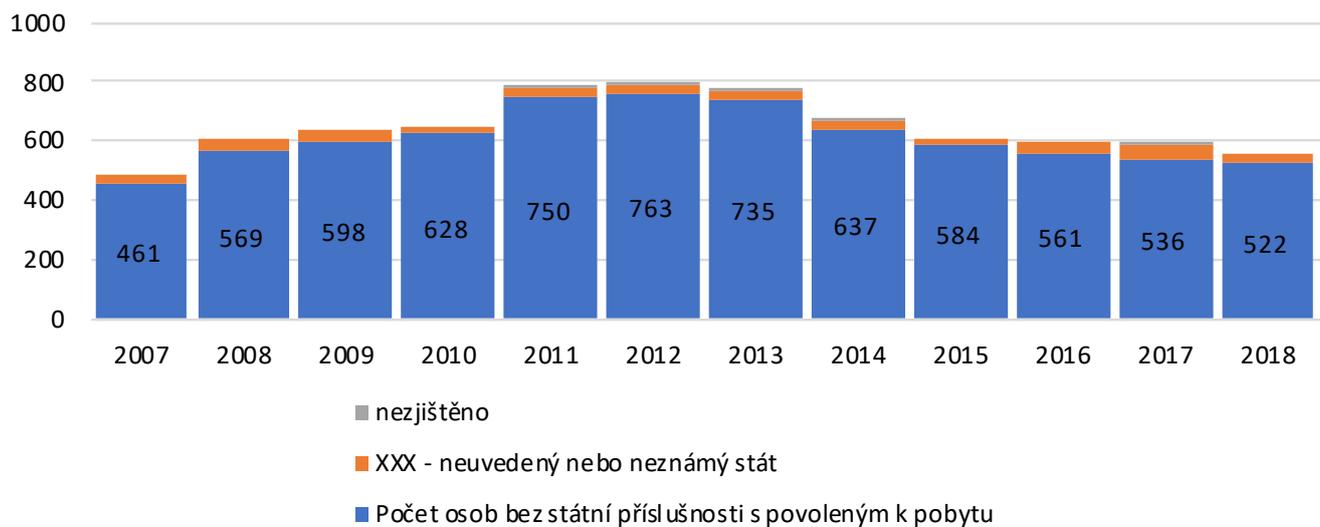
4.1 Stateless persons in the statistics of the Czech Ministry of the Interior

4.1.1 Foreigners with a residence permit

Statistical data on stateless persons with a residence permit in the Czech Republic are publicly available from 2007 onwards.⁸³ Stateless persons are assigned the nationality code of “stateless person” (in Czech: “osoba bez státní přísl.”); they may also be found under the code “XXX – not declared or unknown country” (in Czech: XXX – “neuvezený nebo neznámý stát”). During some years, the code “not identified” (in Czech: “nezjištěno”) has also been used. A special category of stateless persons is further represented by persons statistically classified under the code of Palestinian nationality.

Figure 1 shows the number of stateless persons and persons with undeclared or unknown nationality in the Czech Republic. When comparing the years under review, there are two instances where a significant increase in the number of stateless persons can be identified – one is at the end of 2008 (by almost a quarter) and the other, at the end of 2011 (by about one-fifth). The largest year-on-year decrease in the number of stateless persons with a residence permit occurred in 2014, by one-eighth of the total number (See Table 2). From the entire monitored period, men were more represented than women, with a ratio of approximately 60:40.

Figure 1: Number of stateless persons with a valid residence permit, persons not identified and persons with undeclared or unknown country in the years 2007 – 2018 (as of 31 Dec; as of 30 Jun 2018)



Source: Mol CZ – Third-country nationals with a registered residence permit in the Czech Republic and foreign nationals from the EU plus Iceland, Norway, Switzerland and Liechtenstein with a registered residence in the Czech Republic in the years 2011–2018; Foreign Police Statistics for 2007 – 2010.

⁸³ All data presented below are taken from statistical sheets published as of 31 December of the given year (except for 2018, for which data are as of 30 June).

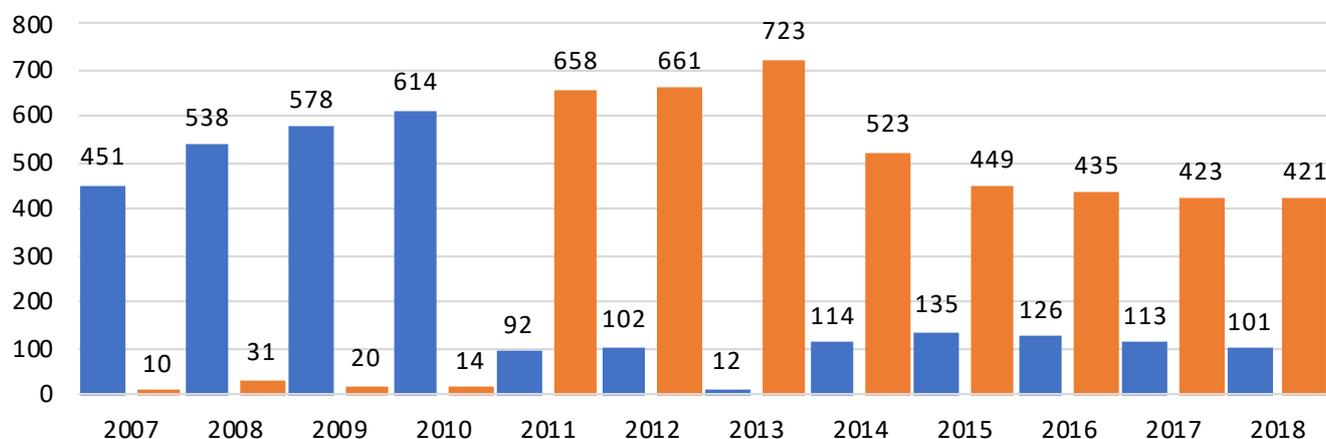
Table 2 Number of stateless persons with a valid residence permit, persons not identified and persons with undeclared or unknown country in the years 2007 – 2018 (as of 31 Dec; as of 30 Jun 2018)

Year	Number of stateless persons with a valid residence permit	XXX – undeclared or unknown country	Not identified	Total	YoY increase/decrease
2007	461	27	0	488	
2008	569	40	0	609	24.8%
2009	598	35	0	633	3.9%
2010	628	23	0	651	2.8%
2011	750	24	2	776	19.2%
2012	763	29	2	794	2.3%
2013	735	29	2	766	-3.5%
2014	637	32	1	670	-12.5%
2015	584	24	0	608	-9.3%
2016	561	34	0	595	-2.1%
2017	536	48	3	587	-1.3%
2018	522	39	0	561	-4.4%

Source: MoI CZ – Third-country nationals with a registered residence permit in the Czech Republic and foreign nationals from the EU plus Iceland, Norway, Switzerland and Liechtenstein with a registered residence in the Czech Republic in the years 2011–2018; Foreign Police Statistics for 2007–2010.

Figure 2 shows the number of stateless persons with a residence permit according to the type of residence. The year 2011 represents a turning point in terms of an increase in the number of persons with a permanent residence. This fact likely corresponds to the shift in the statistical reporting of collected data and the transfer of decision-making competences in relation to certain types of residence permits from the Foreign Police to the Department of Asylum and Migration Policy of the MoI.

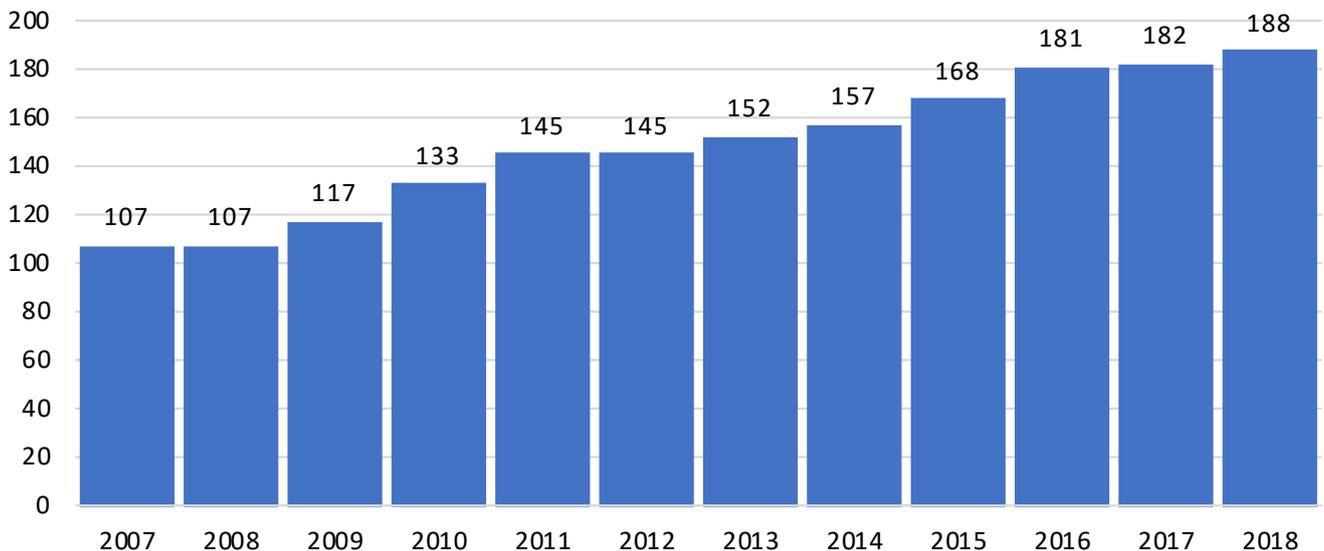
Figure 2 Stateless persons with a valid residence permit according to the type of residence in the years 2007 – 2018 (as of 31 Dec; as of 30 Jun 2018)



Source: MoI CZ – Third-country nationals with a registered residence permit in the Czech Republic and foreign nationals from the EU plus Iceland, Norway, Switzerland and Liechtenstein with a registered residence in the Czech Republic in the years 2011–2018; Foreign Police Statistics for 2007–2010.

Palestinians are reported separately in the statistical overview of foreigners with a residence permit. They are, thus, not included in the category of stateless persons. Figure 3 shows that the number of Palestinians in the Czech Republic is continuously growing. At the end of 2018, the number of registered persons was 188. Over half of the Palestinians statistically reported have a permanent residence permit in the country and men prevail over women. At least part of the Palestinians statistically recorded in this category are likely to be stateless pursuant to the 1954 Convention and, therefore, represent a relevant group for the purpose of this study.

Figure 3 Number of Palestinians in the years 2007– 2018 (as of 31 Dec; as of 30 Jun 2018)



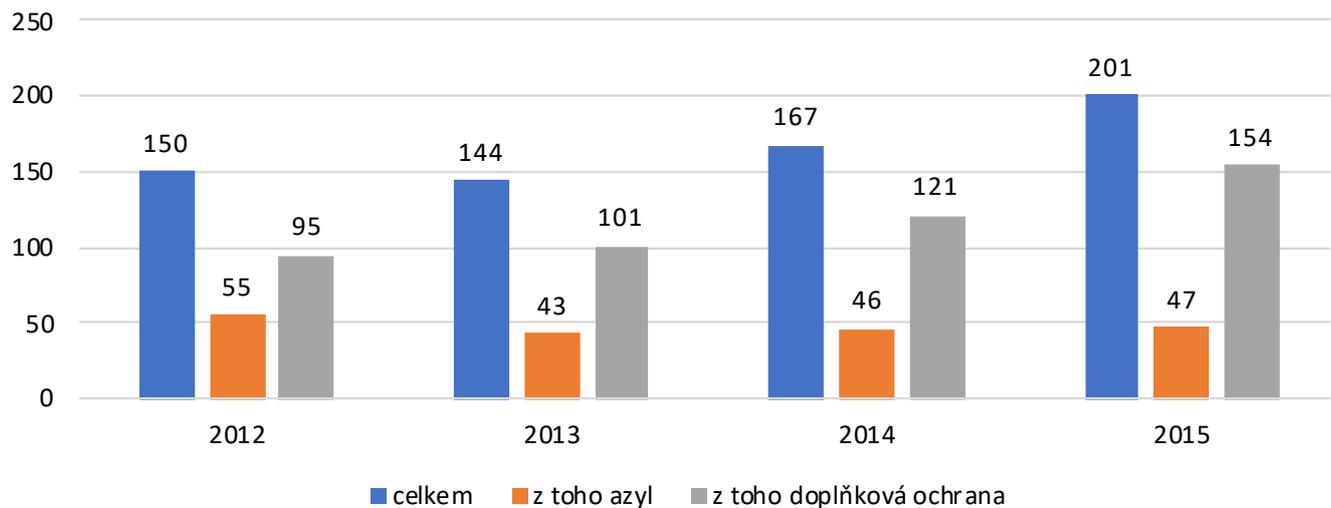
Source: Mol CZ – Third-country nationals with a registered residence permit in the Czech Republic and foreign nationals from the EU plus Iceland, Norway, Switzerland and Liechtenstein with a registered residence in the Czech Republic in the years 2007–2018.

4.1.2 Stateless persons granted international protection

The task to establish the exact number of stateless persons residing in the Czech Republic as beneficiaries of international protection in the form of asylum or subsidiary protection has proven rather difficult. The number of persons who fall into this category in the given year have been published only for the period from 2012 to 2015,⁸⁴ as shown in Figure 4. At the end of 2015, there were 201 stateless persons recorded in this category, with beneficiaries of subsidiary protection prevailing over stateless refugees.

⁸⁴ In the report for previous periods, this information is only indicated in the form of summaries which do not allow information to be separated across the individual years. The Mol has not been releasing the numbers of people with valid international protection since 2015.

Figure 4 Stateless refugees and beneficiaries of subsidiary protection in the years 2012 – 2015 (as of 31 Dec)

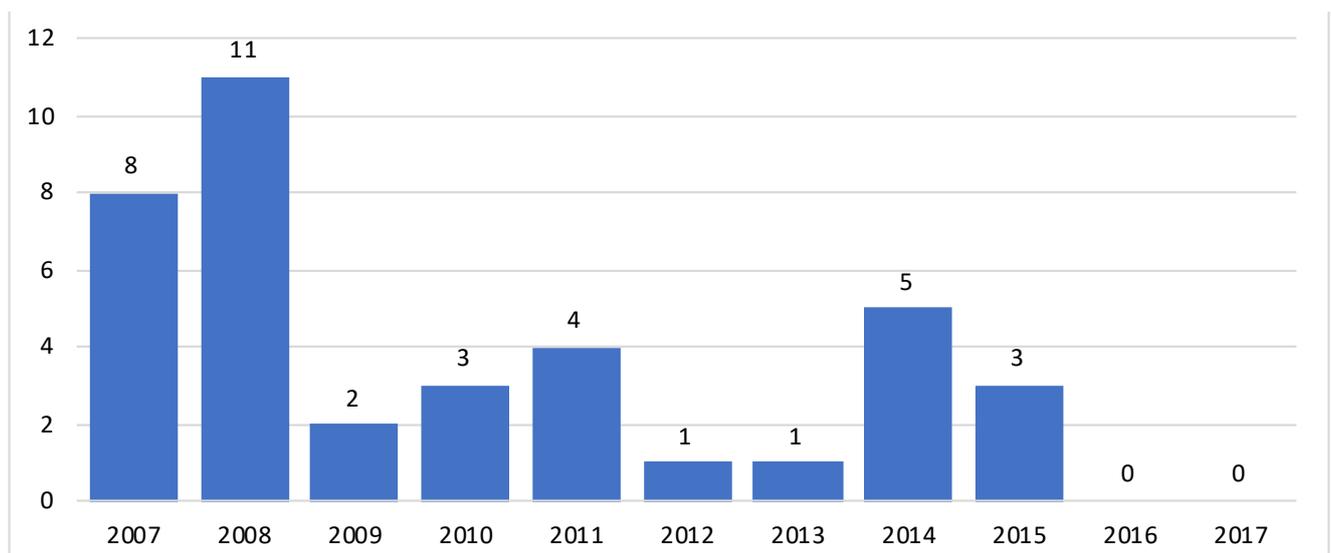


Source: MoI CZ– Stateless refugees and beneficiaries of subsidiary protection from 2012 to 2015 (as of 31 Dec)

Persons with “unidentified” nationality represent another potentially relevant category for the purpose of mapping statelessness. In this category, eight recognised refugees and no persons granted subsidiary protection were registered in 2012. Between the end of 2013 and 2015, there were four recognised refugees and no beneficiaries of subsidiary protection. In the category of Palestinians, there is only one recorded person who was granted refugee status in 1994.

Figure 5 shows the number of stateless persons granted refugee status from 2007 to 2017. It concerns 38 cases in total and a relatively declining trend compared to the positive decision-making on subsidiary protection.

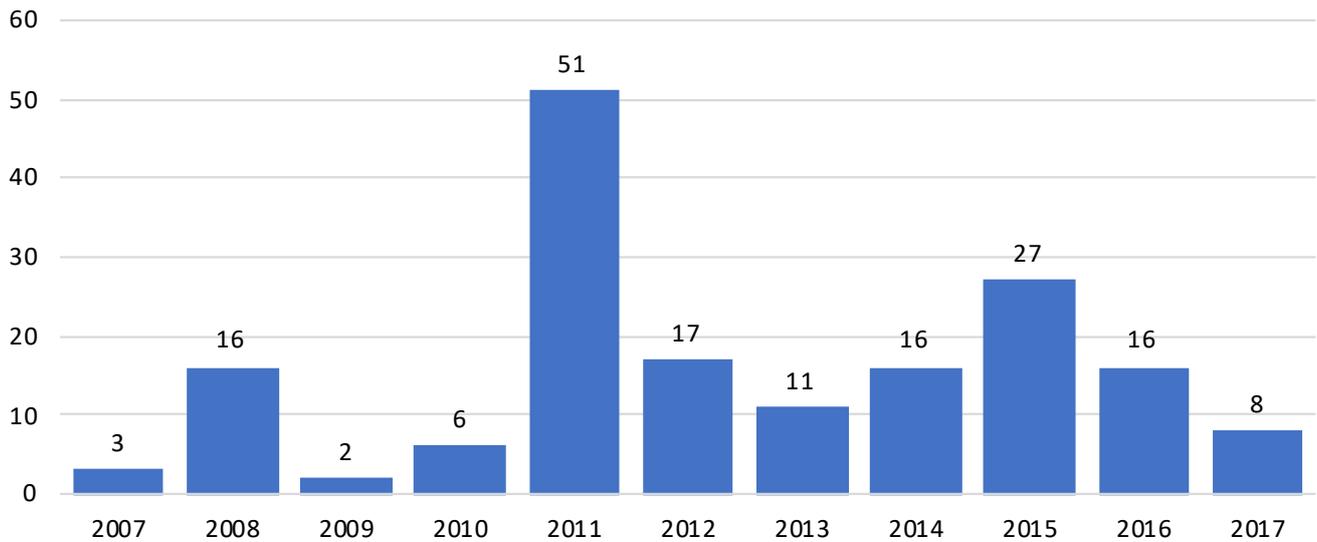
Figure 5 Number of persons granted refugee status in the years 2007–2017



Source: MoI CZ – International Protection in the Czech Republic: Annual Statistical Overview 2017

In the period from 2007 to 2017, subsidiary protection was granted to 173 stateless persons (see Figure 6), of whom 101 were men and 72 were women. No persons falling under the code “unidentified” or under the category “Palestinian” were granted subsidiary protection in the relevant period.

Figure 6 Subsidiary protection granted in the years 2007 - 2017



Source: MoI CZ – International Protection in the Czech Republic: Annual Statistical Overview for 2017

4.2 Stateless persons in the statistics of the Czech Statistical Office

4.2.1 Census of Population, Buildings and Dwellings

The Census of Population, Buildings and Dwellings (hereinafter the “Census”) is conducted regularly by the CSO. The outcome of Censuses can also provide, to a partial extent, information on the number of stateless persons. After the establishment of the independent Czech Republic in 1993, two Censuses were conducted – in 2001 and 2011.⁸⁵

In the Censuses, foreigners were asked about their citizenship with the option to indicate that they were “stateless persons” (in Czech: “osoba bez státního občanství”, literally a “person without a citizenship”). Based on this criterion, there were 2,544 persons in the Czech Republic in 2001 who identified themselves as being stateless. The most commonly represented age category of stateless persons was under 19 years of age, while the second most common category were persons between 30 to 39 years of age (see Table 3).

Table 3 Age groups among the stateless population according to the 2001 Census

Nationality	Population total	Age groups					
		under 19	20 to 29	30 to 39	40 to 49	50 to 59	60+ or not indicated
Stateless	2,544	525	465	484	416	285	369

Source: CSO, 2001 Census, Table 5 Population according to age and nationality

⁸⁵ Information collected on the population in 2001 included all persons who were living in the country at the time on the basis of a permanent or long-term residence, regardless of whether they were present at the place of residence at the time of the Census. In 2011, the total population included all persons with a place of habitual residence (a place where a person usually spends his or her leisure time, regardless of temporary absence) in the Czech Republic at the relevant time, where the decisive criterion for including a person was one year of residence or plans to stay in the Czech Republic in the long term.

A significantly lower number of stateless persons were recorded in the 2011 Census. Only 1,502 persons identified themselves as stateless (see Table 4). As in the 2001 Census, the most commonly represented age category among stateless persons were people under 19 years of age.

Table 4 Age groups among the stateless population according to the 2011 Census

Nationality	Population total	Age groups					
		under 19	20 to 29	30 to 39	40 to 49	50 to 59	60+ or not indicated
Stateless	1,502	497	203	275	219	159	149

Source: CSO, 2011 Census, Table 5 Population according to age and citizenship (nationality)

These figures should, however, be considered as merely indicative given the existing limitations to the data collection. Only a part of the whole number of foreigners were included in the Censuses (approx. 60% of those registered by the Foreign Police in 2001).⁸⁶ Moreover, the Censuses could have been affected by language barriers and, potentially, by the lack of trust on the part of foreigners in providing personal data to the authorities. This distortion is especially likely for foreigners staying in the country irregularly. The indicated number of stateless persons could have also been distorted due to their refusal to identify themselves as stateless. Instead, they may have indicated what they consider to be “their” home country in the Census form. In turn, others may have been nationals of a particular State but identified themselves as stateless.

4.2.2 Cross-sectional statistics on foreigners

Determining the exact number of stateless persons based on publicly available CSO data also proves to be difficult. Stateless persons are classified under the aggregate category of “Stateless + Others + Not identified”. However, figures under this aggregate category for individual years in the available statistics are mutually inconsistent.⁸⁷ CSO also uses different definitions of registered foreigners.⁸⁸ For the purposes of this study, the CSO made a list of stateless persons with a residence permit (excluding stateless refugees and beneficiaries of subsidiary protection) for the period from 2008 to 2017 (see Figure 7).⁸⁹

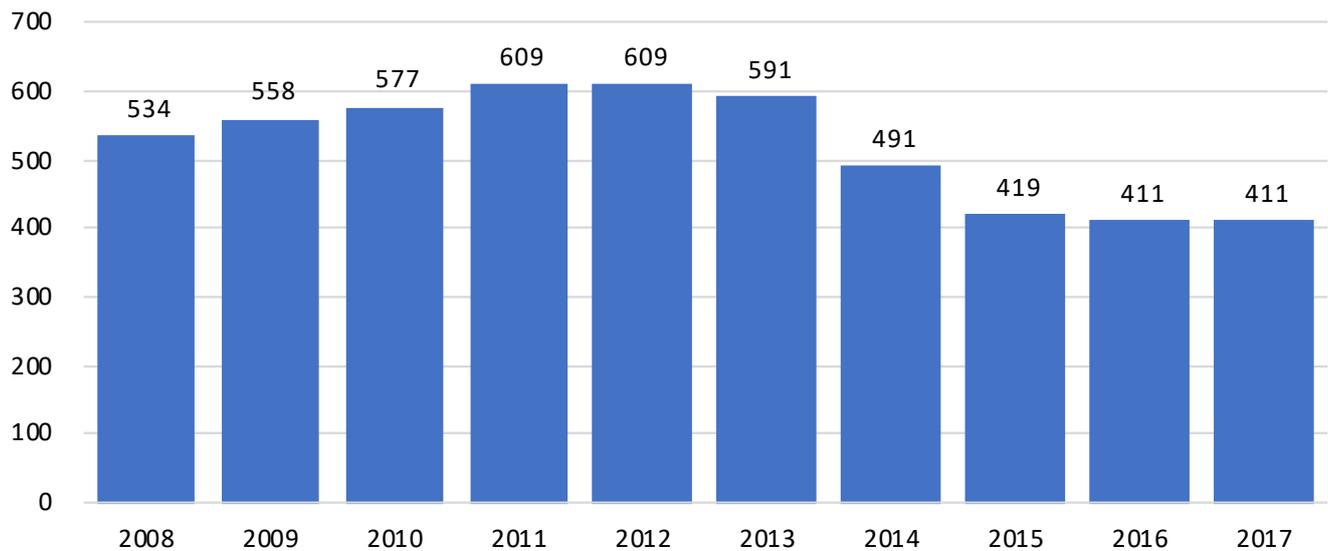
⁸⁶ ČSÚ, *Koncepce výběru a zpracování statistických údajů* [CSO, *Concept of Collecting and Processing of Statistical Data*], cited above, p. 30.

⁸⁷ Especially the following four main data sources: R04 Foreigners in the CR by citizenship in the years 1994–2017 (as of 31 December 2017); R07 Foreigners holding a residence permit for 12+ months by citizenship in the years 2008–2017 (as of 31 December 2017); T01 Foreigners, total by citizenship in the years 2008–2017 (as of 31 December 2017); T14 Foreigners by category of residence, sex, and citizenship in the years 2008–2017 (as of 31 December 2017).

⁸⁸ CSO statistics operate with three categories of foreigners, defined as “Foreigners excl. beneficiaries of asylum”; “Foreigners incl. beneficiaries of asylum”; and “Foreigners holding residence permits for over 12 months”. CSO methodology indicates which groups of foreigners belong under the individual categories with regards to the type of residence permit.

⁸⁹ The list was provided by CSO based on a request by the authors of this study. The authors of the study would like to thank the CSO for their cooperation.

Figure 7 Stateless persons in the years 2008 – 2017 (as of 31 Dec)

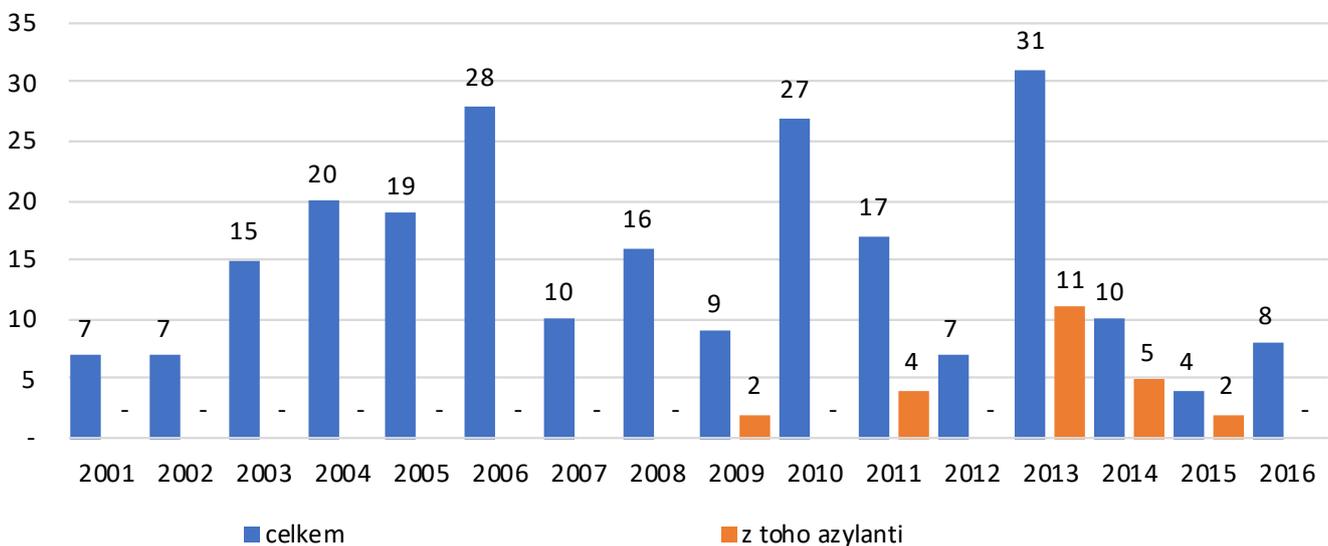


Source: CSO

The lower numbers of registered stateless persons in comparison to the Mol statistics can be a result of a slightly different methodology and categorisation of statistically recorded data within the CSO.⁹⁰ The figures concerning stateless refugees and beneficiaries of subsidiary protection correspond to the publicly available Mol data.

Figure 8 provides information on the acquisition of Czech nationality by stateless persons between 2001 and 2016.

Figure 8 Acquisition of Czech nationality by stateless persons 2001 – 2016



Source: CSO – R91 Czech nationality acquired between 2001 and 2016 – number, by former citizenship; data of the Ministry of the Interior

⁹⁰ Deviation amongst the individual years ranges from 6.2% to 34.2%.

4.3 Limits of statistical data and estimated number of stateless persons in the Czech Republic

As shown above, determining the exact number of stateless persons based on publicly available statistics remains challenging. The analysis clearly shows the limitations in validity of the existing available data on statelessness. Major limitations which may cause discrepancies include:

- 1 **Insufficient links between the registers collecting data on stateless persons;**
- 2 **Inadequate setting of statistical code lists, including the absence of an appropriate category to indicate statelessness;**
- 3 **Statistics only capturing stateless persons legally staying in the country;**
- 4 **Unclear methodological guidelines for determining whether a given person is to be recorded in the “stateless” category or not.**

The lack of consistency in the recorded number of stateless persons can be illustrated by the data for 2011. Mol statistics indicate that there were 750 stateless persons residing in the Czech Republic in the given year (excluding stateless persons with international protection). By contrast, 1,502 participants in the 2011 Census identified themselves as stateless, while the CSO's statistics indicate 609 stateless persons. Information on the number of stateless persons with any type of international protection are unavailable for 2011.

As stated above, the numbers of stateless persons living in the Czech Republic irregularly are not shown in the statistical records. Similarly, the information on other life events that concern stateless persons is rather incomplete. The category of Palestinians is recorded separately, regardless of the fact that it also includes stateless persons. Moreover, the publicly available statistics do not contain any information on the number of applications for determining statelessness lodged pursuant to Section 8 (d) of the Asylum Act.

An estimate total number of stateless persons currently living in the Czech Republic can be based on the following conclusions. While it is not entirely possible to determine the exact number of recorded stateless persons residing regularly in the Czech Republic, it can be inferred that it ranges between 700 and 800 persons. However, the actual number of stateless persons in the Czech Republic is likely higher, considering the above-mentioned limitations. The lack of information on persons staying in the country without documentation shows that a group of stateless persons who are not recorded in the statistics may be significant. In order to assess the size of this group, it is plausible to use the outcome of the 2011 Census according to which approximately 1,500 stateless persons reside in the Czech Republic. While this figure is also rather an estimate, it can still serve as a useful point of reference as it, at least partially, may have recorded stateless persons who live in the Czech Republic undocumented. Based on this, it can be concluded that there are up to 1,500 stateless persons in total living currently in the Czech Republic.

5

STATELESSNESS AND THE MIGRATION BACKGROUND OF INTERVIEWED STATELESS PERSONS

5.1 Uncertain residential status

Most persons interviewed during the study have been living in the Czech Republic for many years. Seven of fifteen interviewed stateless persons arrived in the Czech Republic in the 1990s. One was born in the Czech Republic. The average length of their stay in the country was 16 years. Most of them have arrived with a valid visa and a travel document. Approximately half of the interviewed persons arrived in the Czech Republic with a view to seeking international protection, the rest came to work or to be reunited with their families.

Most interviewed persons have, therefore, previously held various types of residence permits in the Czech Republic. In some cases, the residence permits have not been extended or have been cancelled, often for reasons related to the persons' statelessness (inability to show an ID, etc.). Others have never succeeded in their efforts to obtain a valid residence permit in the Czech Republic and their legal residence has been limited to the duration of asylum or expulsion procedures or in the periods spent in custody or in prison. A total of 11 interviewed persons have applied for international protection at some point during their stay in the Czech Republic, with over a half of them doing so repeatedly. The average length of time spent in refugee status determination procedures was around seven years. Only one interviewed person was granted international protection based on his well-founded fear of persecution in Syria, country of his former habitual residence.

At the time of the interviews, only three persons had a valid residence permit. The remaining 12 persons were staying in the country irregularly or their stay was permitted temporarily based on the exit visa or pending the administrative expulsion procedure. Nine of the interviewed persons have lodged the application for the determination of their statelessness status under Section 8 (d) of the Asylum Act.

5.2 Attempts to find a legal solution

The findings stemming from the individual cases included in the research illustrate the difficulties with the current legislative framework to address the specific situation of stateless persons and facilitate regularisation of their residence. Persons who had a certain type of residence permit in the past have found it impossible to regularize their stay again. Similar problems were encountered by rejected asylum-seeking participants.

« *I'm trying, but nobody is opening a door. Just to have someone who could say, "Hey, we'll give you a chance and you solve your situation." I just want that chance.* »

Legal avenues for stateless persons in a migratory context to regularise their stay are, indeed, very limited. First, applications for most types of residence permits must be made at Czech embassies or consulates abroad and, second, applicants must present a valid travel document. This is often unrealistic for stateless persons. The persons interviewed in the study were unable to travel outside the Czech Republic and they had no travel document that they would be able to submit in order to apply for a residence permit. Also, countries of former habitual residence or successor states to their countries of origin may be unwilling to admit them on its territory because they were not its nationals. The interviewed persons could, therefore, neither leave the Czech Republic, nor resolve their situation in the Czech territory.

According to the current national legislation, most of the interviewed persons could only consider filing an application for a tolerated stay visa.⁹¹ However, to obtain the visa the applicants must prove that it is impossible to leave the Czech territory on account of reasons independent of their will. For stateless persons, this means proving in cooperation with the authorities that they are not considered as nationals by any State and that therefore no State would accept them back to its territory. This has proved extremely difficult in practice because the embassies of the countries of former habitual residence or otherwise relevant in their situation often refused to communicate and certify whether they were their nationals. However, even in cases where the interviewed persons had documents confirming the absence of nationality, there was no guarantee that they would obtain the tolerated stay visa. Many of them have been issued a decision on administrative expulsion or even a criminal expulsion for their irregular stay and a failure to leave the country. As a result, they are unable to meet the requirement of non-inclusion in the register of undesirable persons.

The fact that the decision on expulsion could not be (even repeatedly) carried out does not automatically constitute a legal ground for taking the individual out of the register of undesirable persons and for granting a tolerated stay visa or otherwise resolving the residence status. Such persons, thus, find themselves in a deadlock situation where they were formally ordered to leave the country and are obliged to comply with such an order but are unable to, without the authorities considering that the order is impossible to comply with. For want of other options, some interviewed persons repeatedly opted to apply for international protection. However, as the asylum procedure is not intended to protect rights of stateless persons, unless they are also refugees, their asylum claims were usually rejected.

« I have a problem that I cannot get a passport because I am stateless. I have no papers and I always get the exit visa, but I cannot leave.”

« At least a hundred times over I have thought about how it could be solved. But there is no way out.”

The interviews have also revealed that stateless persons have often hardly understood their legal situation, despite their long stay in the Czech Republic. They understood that they face difficulties with regularising their stay but do not understand the circumstances, reasons and procedural details. Legal procedures were deemed to be too complicated. They often considered their situation hopeless and did not understand why there was no legal option open to resolve it.

« I got used to the fact that I have to wait. (...) Maybe, there will be something for me in the laws. I did nothing, I hurt nobody. I did not flee from anywhere; I have just arrived and have had bad luck.”

5.3 Opinions on the procedure under Section 8 (d) of the Asylum Act

Given the aforementioned lack of legal avenues to regularise their residence, one of the very few options available to most interviewed stateless persons in this regard was to lodge an application for determination of statelessness.

According to the conducted interviews with the stateless persons, the statelessness determination procedure pursuant to Section 8 (d) of the Asylum Act has not led to the desired outcome. The MoI has not reacted to any of the applications as of November 2018. Four interviewed persons lodged their applications already in 2017 and have received no reply from the MoI. The MoI remained inactive even in cases where the person concerned brought an action before the domestic administrative court against the procedural delays. One interviewed person confirmed that he had succeeded with his action and that the administrative court decided in November 2017 on

⁹¹ Another rather theoretical possibility is to file an application for a permanent residence permit for reasons worth special consideration. However, this type of residence permit is granted only exceptionally at the discretion of the administrative body.

unlawful delays caused by the MoI, which was ordered to render a decision in the matter.⁹² Nearly a year after this decision, he has received no reply from the Ministry.

Furthermore, the interviewed stateless persons pointed out that their legal status during the statelessness determination procedure was not regulated and that they received no identity document which they could use to demonstrate that they were applicants. They expressed bewilderment and surrender, hoping that their residence status would be regulated in some way during the procedure.

« *The last hope I had was the procedure on determination of statelessness status [note: procedure under Section 8 (d) of the Asylum Act]. At the same time, I filed an application for a tolerated stay visa. They dismissed it after 30 days because my name is in that register [note: the register of undesirable persons]. The lawyer told me that the Ministry does not react on my application for statelessness status. I have no other hope. Now I have no hope.*»

« *I wish they gave me some kind of residence permit after I filed that application. I wish they gave me some permit until they decide. (...) This is what I am waiting for. Any type of visa, so I could move freely. This is all. Now, I am stuck.*»

The filing of the application for determining statelessness did not protect the persons concerned against repeated decisions on administrative expulsion and deprivation of liberty with a view to removal, attempts of which have proved to be unsuccessful. Two interviews took place in the detention centre, where the interviewed persons were detained even after having filed the applications under Section 8 (d) of the Asylum Act. In the past, both persons had already been repeatedly deprived of liberty with a view to executing the expulsion orders. Another interviewed person received a third decision on administrative expulsion while his application under Section 8 (d) was pending. In none of these cases was the lodged application for statelessness taken into account.

The interviews further revealed that potential applicants could be deterred from lodging the application for determining statelessness on account of unclear procedural rules before the Ministry upon lodging the application pursuant to Section 8 (d) of the Asylum Act, as well as the lack of awareness of the existence of such a procedure. One of the interviewed persons noted that there are more stateless people who were not actively solving their situation because they did not know how.

« *I know that I am not the only one [note: stateless person]. There are more people like me here, but they are so ... If you would do something for them, they would come, because now they are just sitting around and ... Even I would just sit around if it was not for my friend who helped me, because you just don't know where to go. You don't. (...) There are more such people, but they just sit around and do nothing because they do not know what to do.*»

5.4 Practice of relevant authorities in the eyes of stateless persons

The analysis showed that the State authorities have insufficiently addressed the situation of the stateless persons interviewed in the study. According to the interviewed persons, the authorities were not willing to take their specific situation as stateless persons into account and that State officials were reluctant to process their cases or addressed their cases inconsistently. Thus, interactions with State officials often revealed stateless persons powerlessness alongside a lack of clearly established procedural rules that, if put in practice, would facilitate better orientation in the situation and lead to stateless persons comprehending the steps needed to be taken.

⁹² Judgment of the Municipal Court in Prague of 29 November 2017, no. 10A 155/2017. The judgment is not publicly available.

« I said at the Foreign Police that I had no nationality. None. They replied: 'How come?

You were born there and there, so you had to have some nationality.' I said: 'No, I have none.' And they replied: 'Really none? You have to have some nationality. You are Russian, so for example Russian nationality?' 'I have none.' (...) I cannot talk about it anymore. It is terrible, all the explaining. Nobody understands it, it is crazy. "

« **Interviewer:** *When you received the decision [note: on administrative expulsion] from the Foreign Police, were you identified as a stateless person?*

Participant: *No, I was not identified as stateless. It stated that I am Palestinian.*

Interviewer: *And have you told them that you are stateless...?*

Participant: *So many times! But in the asylum application that I have filed, they refused to indicate me as a stateless person, they told me that I have to state there what is written in my passport. But my passport is Palestinian, so I am a Palestinian for them. They told me that they cannot write there that I am stateless.*

Interviewer: *So they consider you to be a Palestinian national?*

Participant: *I explained it to them many times and from the very beginning I told them that the passport I have is a temporary passport, that I don't have the Palestinian national identification number there, that it does not prove my nationality in any way. But I don't know, maybe they need some kind of proof, and maybe they are not interested at all. I really don't know how they work. But I am sure that the Ministry of the Interior is aware that I am stateless. I am really sure they know it and that they know about my entire situation.*

The above demonstrates the negative implications that arise from not having an effective statelessness determination procedure establishing that a person is stateless for the purpose of his or her further communication with the authorities. Stateless persons were repeatedly required to explain to the authorities that they were not nationals of any State. These efforts were described by the interviewees as frustrating, while the outcome was often uncertain because the authorities responded differently to the claims, even if the absence of nationality was well documented.

« (...) *Sometimes they gave me an exit visa so I could leave the country. But how can I leave? And so I told them I don't have any nationality, I have no place to go and I cannot even leave the country. And they are just not interested, they say "that's your problem."*

« *It's terribly complicated, I don't even try to explain it. I tried to explain it to the police but they were not interested. Because they are only interested in what they have in their system."*

The reviewed administrative decisions provided by the interviewed persons showed that nine persons have consistently been referred to as stateless by the administrative authorities. In respect of the other six participants, the authorities have used the nationality of the country of former habitual residence before arriving to the Czech Republic. The authorities used these nationalities despite the fact that the relevant persons were not nationals of these countries, which was well documented in some cases. However, the relevant decisions, as demonstrated below, often lacked adequate reasoning reflecting considerations of the administrative authority in relation to this matter.

This problem can be illustrated in the case of one of the participants. In the decision on administrative expulsion the individual was referred to as a national of Iraq from which he came to the Czech Republic more than 20 years ago. A month later, he was detained for the purpose of the execution of the administrative expulsion order. In the decision on detention, the Foreign Police (without any explanation) referred to his nationality as “XXX”. Eight months later, the Foreign Police issued another decision on administrative expulsion where he was referred to as a “stateless person”. Meanwhile, this person lodged an application for a tolerated stay visa with the Mol. In the decision on this application, the Mol referred to his nationality as “undetected”. In none of these decisions did the administrative bodies explain the considerations behind their nationality determination of the applicant. All the decisions were issued within one year. The nationality of the individual was identified in four different ways despite no factual change occurring during this period. Moreover, the Iraqi embassy confirmed several years ago that the person concerned was not their national. While information provided by foreign authorities is sometimes of central importance to determine statelessness⁹³ and Iraq was the only country with which the individual had a relevant link, it could have been established to a “reasonable degree” that he is not considered as a national by any State under the operation of its law.⁹⁴

The Supreme Administrative Court reproached the lack of transparency and arbitrariness of the administrative bodies’ approach when determining the nationality of this person in an action against that person’s detention: “In the detention proceedings, the applicant was identified as Iraqi national (...), on the other documents (...) the applicant’s nationality was referred to as “XXX” which indicates undetected nationality.”⁹⁵ A part of the police file was, according to the Court, a report issued by the Iraqi embassy in the Czech Republic stating that “it was evident that the applicant was not an Iraqi national”, because “the representative of the Iraqi embassy in Prague during the consular visit of the applicant (...) found out that he was not an Iraqi national, had no links to the Republic of Iraq and did not speak Iraqi dialect.”⁹⁶

In addition, the interviews and analysed documents revealed that even in cases where the relevant authorities referred to the persons as stateless, they failed to give consideration to the obligations pursuant to the 1954 Convention and the specific aspects pertaining to statelessness in their decision-making. These stories show the vital importance of establishing procedures determining statelessness through legislation, which ensures fairness, transparency and clarity⁹⁷ to both the individuals and authorities concerned.

5.5 Missing personal documents

A substantial problem faced by the stateless persons interviewed during the research was the absence of identity documents and/or internationally recognised travel documents.

Some persons interviewed during the research confirmed having an internationally recognised travel document – a Czech foreign national’s passport, a Palestinian passport, or a passport issued to Latvian non-citizens. However, the practical applicability and the scope of rights associated with these types of documents varied. Others had only a provisional document issued by the Czech authorities – the identity travel card – which contained either an exit visa or a tolerated stay visa. This document, however, lacked the machine-readable elements and, therefore, the possibility of using it to travel abroad was very limited. This fact also precluded the persons concerned in their efforts to comply with the State’s order and leave the Czech Republic.

⁹³ UNHCR, Handbook on Protection of Stateless Persons, cited above, para. 96.

⁹⁴ Ibid., paras. 91 and 92.

⁹⁵ Supreme Administrative Court, judgment of 22. November 2017, no. 1 Azs 283/2017, para. 20.

⁹⁶ Ibid., para. 21.

⁹⁷ UNHCR, Handbook on Protection of Stateless Persons, cited above, para. 71.

Several interviewed persons lacked any kind of valid identity or travel document. It turned out that the lack of documentation proving a person's identity had considerable impact on their everyday life and caused stressful situations. The lack of documentation affected not only the ability to prove one's identity, but also their access to rights, services and the State authorities. The inability to prove one's identity became the key factor determining their lives. Some stateless persons tried to use other documents that at least in some way indicated their identity. One participant, for instance, said he kept his client card issued during his stay in the detention centre in order to prove his identity.

« You must have something to receive assistance. You must have some document to go to any office.”

« You have to have documents, there is no other possibility.”

« At least something, it does not have to be the same thing as for nationals but I wished they gave me at least some document so I can start anew. They should give me a document and if they don't want me here in the Czech Republic, I can go to another country and start working there. (...) I want something. Anything, in order to start anew.”

Some interviewed persons were staying in the country on the basis of the pending administrative expulsion procedure. During this procedure, a foreign national is allowed to remain lawfully in the country and the Foreign Police issues a written confirmation thereof. For some of the interviewed persons, this was the only official document they had. However, its use in everyday life causes problems because it is not designed as a standard identity document with a photograph.

6 IMPACT OF STATELESSNESS ON THE LIVES OF STATELESS PERSONS

« **Interviewer:** “You said you’ve been stateless for over 25 years. What obstacles does it present to you in your everyday life?”

Participant: “You should ask me what obstacles it doesn’t present. I’d say it affects everything.”

The above comment illustrates the scope and complexity of the impact statelessness has on everyday life. An analysis of these impacts has been undertaken using the Maslow’s hierarchy of needs.⁹⁸ The lowest tier includes physiological needs, followed by security and safety and the need of belonging and love. Higher tiers include esteem needs such as prestige and a feeling of accomplishment, while self-actualisation lies at the top.

With respect to their situation, the stateless persons interviewed during the research most often raised issues pertaining to the three lowest levels: (1) physiological needs; (2) security and safety needs and (3) belonging and love needs. The discussed topics were, thus, associated with work, livelihood, housing, health and social care and family life. These are all basic needs. In contrast, there was an apparent lack of articulated needs at the highest levels (needs of prestige, self-esteem and self-actualisation). If the interviewed persons mentioned these topics at all, they did so only in the form of projections – usually wishes and dreams for the future, which they seldom believed in, such as obtaining further education or performing skilled jobs.

6.1 Livelihood and employment

The possibilities of employment and ensuring livelihood depended on the residence status of each individual interviewed. Two basic categories of persons could be distinguished.

The first category included persons who had a certain type of residence permit and a corresponding legal status in the Czech Republic. Persons with a residence permit, depending on the type of permit, may be employed either with a work permit issued by the Labour Office or without further limitations. The latter applies to asylum-seekers six months after lodging the application. This category of interviewed persons did not mention major concerns in relation to employment or running a business.

The second category involved persons living in the country without a residence permit. They were, therefore, not allowed to work or perform other gainful activity. This meant that they either did not work at all or worked occasionally without the relevant work permit. Some interviewed persons have been in this situation for a long time. Even if they had initially stayed and worked in the country legally, they had fallen into an irregular status due to various circumstances (often related to their statelessness) and were forced to make a living as unregistered workers or they had completely lost their source of livelihood because their former employers refused to employ them without a work permit.

The interviews with stateless persons revealed that the situation of stateless persons working without the relevant permit was in many aspects analogical to the situation of other undocumented foreign workers. Their jobs lacked stability; they worked in disadvantaged conditions which made them vulnerable and prone to exploitation. The main difference was that stateless persons did not have any options to resolve their situation, options which are

⁹⁸ Maslow’s hierarchy of human needs was formulated by the American psychologist Abraham Harold Maslow in 1943.

possibly available to other foreigners. Foreign nationals can usually choose to return to the country of origin where, as nationals, they have certain prerogatives. Stateless persons often do not have such possibility since they are not considered nationals anywhere.

Where the interviewed persons were detained for the purpose of administrative expulsion, they often had to be released after the expiry of the maximum detention period because the expulsion could not be carried out. They, thus, continued living in the Czech Republic. After some time spent in detention, they were usually bound to start working without the relevant work permit to sustain themselves and the whole process started again. Therefore, a sudden deprivation of liberty usually meant a loss of the current job and, hence, source of livelihood. Upon release from detention, they had to find new opportunities which was hard, especially in the first weeks.

The interviewed stateless persons have repeatedly described the pitfalls of irregular work in unstable and disadvantaged conditions. The lack of documentation and the absence of a legal status made them prone to exploitation. Considering their vulnerable position, they often mentioned violation of their rights and various forms of exploitation by their employers. These included lower wages, unpaid salaries, working in hazardous conditions without proper safety and protection measures or forced overtime work.

The interviews also showed that the frequent absence of identity documents and the overall social and economic marginalisation meant that stateless persons were, in principle, unable to defend their rights and go to courts or other authorities if an employer had committed an unlawful act. The interviewed persons had no belief that there were any means of legal protection available to them.

« **Participant:** *Last time I worked for one man I should have earned 7,000 Czech crowns but he gave me nothing ...*

Interviewer: *So it sometimes happens that you don't get paid?*

Participant: *It happened to me several times. Last time, 7,000 Czech crowns.*

Interviewer: *Do you think you can defend yourself?*

Participant: *No, I cannot do anything. What can I do? Complain?
And this is not the first time. I got used to it.*

« **Participant:** *Sometimes at work they are pressuring me, a lot. I simply can't stand it. You know, I have my limit, when they are pressuring me, I simply can't stand it anymore. (...) When you are doing 'black contracts', people are pressuring you much more. "*

Interviewer: *Do you mean that you are subject to worse conditions?*

Participant: *Well, I do not have any conditions.*

One interviewed person, who had to provide for several members of his family, tried to assert his right to be paid for the performed work by unlawful means, which resulted in his criminal prosecution and further deterioration of his situation.

The stateless persons working irregularly are, according to the interviews, often left with physically demanding work with an increased risk of injury. The interviewed persons described the consequences of such work including exhaustion, chronic health problems and other risks to their health.

« *I perform physical work. Sometimes on constructions, very hard work. Everything hurts me. Sometimes I cannot sleep at night because I keep waking up. Imagine you are so tired that you cannot sleep. (...) My back hurts, very much, my knees hurt, also very much. (...) I am taking Ibalgin [note: a painkiller drug], every week I need at least one box. I live on Ibalgin. (...) I wake up at least twice every night. Sometimes I wake up from teeth pain or knee pain. You see, terrible ... My back hurts enormously."*

Securing a livelihood when one is dependent on irregular work is marked by its temporary nature and considerable uncertainty. The interviewed persons could often not choose their employment. They were dependent on mediators or relatives, friends and others. They carried out primarily unskilled work and remained confronted with the fact that they do not have the opportunity to obtain a better job. They considered the lost opportunities to be a direct consequence of their statelessness and associated limitations.

« *It depends on who will call me. I paint, weld, work on construction sites. And so I live, sometimes for several days without any meal.* »

« *I live day by day. I don't know what will happen the next day. Maybe I will work, some temporary job somewhere or something similar. I do what I can to survive.* »

« *I do what I can, sometimes I wash dishes, sometimes I work in a restaurant, I work as much as I can. (...) I am hardworking, I like working and I have worked for 9 years. I cannot live without work. I could do something better, but I can't because I do not have the documents, I am scared. I am the homeless.* »

6.2 Pension and retirement

The persons interviewed in the study at the age of 60 and above, who were approaching the retirement age, could not count all their years of work for their pension entitlement. This was mainly due to past irregular employment. However, they also found it impossible to get a certificate for the period of time they worked outside the Czech Republic. Two stateless persons who are no longer able to work due to their age and health condition were financially supported by their family members in the Czech Republic or abroad. One person with a valid residence permit received a disability pension.

Age played a key role in terms of thinking about retirement, which was clear from the testimonies concerning stateless persons' everyday lives and making plans and wishes for the future. Older persons interviewed were very afraid of the future, when they would no longer be able to work and earn enough money to cover their basic needs such as housing and food. Those who worked in the Czech Republic or have worked for a certain period of time, at least irregularly, considered this situation disadvantageous and unfair. They have often performed difficult manual jobs, usually for low wage and with limited guarantees of being paid. Some considered the impossibility to work legally as an injustice that prevented them from acquiring basic security in their lives, earning enough money and having at least some prospects for the future.

6.3 Housing

Just as in the case of employment, the residence status and corresponding financial situation of the stateless persons interviewed significantly determined their housing prospects. As noted above, 12 out of 15 interviewed persons did not have a valid residence permit at the time of the interviews. The interviews with those persons were dominated by their concerns of becoming homeless and the inability to secure a stable and legal housing based on a contract.

Some of the interviewed persons were or have occasionally been homeless. At the time of the research, one person was homeless for over six months and other persons have also experienced temporary homelessness for weeks at a time.

« *I live outside as homeless a person, I have lived outside on the street for a long time. I live in Prague, either at friend's house or under the bridge.* »

« I cannot rent anything. I cannot ... Can you imagine how it is, without a visa you cannot do anything.»

Others have been staying with friends where possible. As long as they have family members in the Czech Republic (typically parents, adult children or partners/spouses) with a valid residence permit and a home, they were usually staying with them. They sometimes felt they are a burden on their close ones.

« I really don't know what to do. I can only hope for the best. I'm getting ready for the worst, but I hope for the best. And that's all. Maybe I will find someone else where I can live if my friend moves.»

Other interviewed persons who were unable to secure a place with friends or family have chosen to live in dormitories. However, this type of accommodation requires presenting an identity document, which some interviewed stateless persons described as a major obstacle to accessing this service. For example, it was not possible to use the police confirmation of pending administrative expulsion for this purpose.

6.4 Mail delivery

Statelessness often impacts on otherwise trivial matters in life. One of the aspects associated with the previous topic of housing are complications with mail delivery. As shown, the stateless persons are being pushed by external circumstances to live in unregistered places, yet they need an address to receive official correspondence. Again, the research shed light on a self-contradictory situation – an irregularly staying person should have a regular address. This issue affected both homeless participants as well as those who were staying at an address where they were not officially registered. Securing a name on the mailbox often depended on the owner of the flat rather than on the stateless person's own decision.

The interviewed stateless persons who were unable to find accommodation where they could be registered and receive mail, decided to seek a legal representative who would receive their mail from the authorities. Not everyone, however, could opt for such a solution since it depended on the availability of free legal aid. Some dealt with the situation by receiving mail at the address of their friends or relatives, at a place where they do not actually live.

Issues associated with mail delivery is made further problematic by the lack of identity documents for stateless persons. Registered mail cannot be received without presenting an appropriate identification document to the delivering postal worker. This is the case even when the interviewed persons were officially registered at a certain address or their names were indicated on the mailbox. The inability to receive official letters represented a significant obstacle to communication with the authorities.

6.5 Impact on family life

When analysing the impact of statelessness on family life, it is necessary to distinguish between the family of orientation, into which a person was born, and the family of procreation, created by that person.

The interviewed stateless persons usually associated the family of orientation with financial assistance and help in finding housing and satisfying other basic needs. They usually received help reluctantly, being forced to do so by the circumstances. Some interviewed persons were ashamed of their situation and did not disclose it to their parents, considering it their personal failure. They often did not mention their situation to their families and painted their lives in the Czech Republic in bright colours to prevent their relatives from worrying or to avoid offers of help. At the same time, some interviewed persons felt certain obligations towards their parents or siblings which they were supposed to meet but were unable to do so because of their current situation. This may include occasional

financial help (paying for their parents' medicine, earning tuition money for siblings) or meeting their parents' last wishes and caring for them in their old age.

« *What bothers me most, what I cannot just leave behind, is my mother. In the 21st century, when people fly to Mars, I am here on the planet Earth and cannot get from a point A to a point B to see my parents and take care of them. Such indifference, it's hideous, not human.*»

Additionally, the stateless persons interviewed in the study mentioned issues associated with the family of procreation, especially concerning starting a family of their own. Unless they already had a partner or children before they became stateless, they often expressed their wish to start a family, but only if their statelessness and residence situation were to be resolved. This would bring much needed stability into their lives. However, they hardly believed this was possible and rather chose (voluntarily or compelled by circumstances outside their control) to remain single, without a spouse and children. They explained this decision with particular reference to the likely negative impact that their situation would have on the lives of their partners and children as well as their inability to ensure a sufficient living standard for their family.

« *I'm not married, I just do not want to. I do not want my children to be born to find themselves in my situation. In the situation I've got from my father.*

« *At least one child. If I had lived like a normal person and had normal work and such things, I would want at least one child. (...) But it's just ... Not now.*»

« *I would like to have a family, but it is hard in such a situation. This is my only wish, to have a family.*»

One interviewed person, who already has a family and lives with his partner and their three-year-old son, has changed his plans to have more children as a result of losing a residence permit, despite the fact that he desired to have a big family. Because he had no documents, he cannot marry the mother of his child, which is why they live together only as partners.

6.6 Health care

The unavailability of health care and health insurance was another issue the interviewed stateless persons encountered on daily basis. Those who had a residence permit or were in the asylum procedure mostly had a health insurance in that time. In some cases, however, the only legally available health insurance scheme was private, which does not cover a large range of treatments and has other numerous limitations. The interviewed stateless persons without a valid residence permit were, except for one case, not party to any health insurance scheme. This, together with the absence of a stable income and financial means to pay for treatment, was often mentioned as a reason why the stateless persons avoided seeking medical care, even in cases of urgent need. For the same reasons, psychological or psychiatric assistance was out of reach for the interviewed stateless persons despite its apparent need. The interviewed persons were often stressed and suffered from anxiety, chronic insomnia or even suicidal thoughts.

Some persons have also described cases where they have been denied medical care due to being unable to produce any identity document, residence permit or health insurance card. In one case, the police were called when a stateless person went to see a dentist to seek urgent medical intervention. He left before the police arrived, and later tried to treat himself by pulling a tooth out by himself with a wrench, which resulted in a shattered tooth and caused a massive inflammation.

6.7 Detention

Nine of the 15 interviewed stateless persons were subject to a decision on administrative expulsion during their stay in the Czech Republic, most of them repeatedly. A sentence of expulsion was imposed by criminal courts on five interviewed persons in the past. In three cases, the only reason for imposing the expulsion sentence was that they had not complied with an earlier decision on administrative expulsion. Two persons were sentenced on this ground repeatedly, three and five times respectively. For not complying with the earlier expulsion decisions, both persons were eventually sentenced to imprisonment for 10 months and one year, respectively.

Seven interviewed persons were subjected to detention for the purpose of enforcing the decision on administrative expulsion. Their detention usually lasted for the maximum statutory period of 180 days. In addition, four persons were detained in criminal custody during the authorities' attempts to carry out the imposed expulsion sentence. In three cases, the custody lasted one year while the fourth person spent 10 months in custody. None of these deprivations of liberty led to expulsion.

The experience with deprivation of liberty was traumatic for the interviewed persons, especially because of the context of hopelessness of their stay in detention. Statelessness is the determining factor in this respect.

« *The last step was when they had detained me in Bálková [note: the facility for the detention of foreign nationals]. I was detained there and I told myself that this is the last step, that they had to realize that they cannot put me anywhere, send me anywhere else. (...) And then I realised they knew what was going on, but never wanna do anything about it.*»

« (...) *I never expected that it could happen. But you know (...) This situation is a very sensitive one (...) I am very disappointed. I think about my family and ... It is what it is. I cannot talk about it anymore.*»

The situation can be illustrated by the example of one of the interviewed stateless persons who has been living in the Czech Republic for over 20 years. After his application for international protection was rejected in the late 1990s, he stayed in the country irregularly, which necessarily resulted in his apprehension and detention. While detained, efforts were made to obtain a travel document from his country of origin but without any success. He learned that due to a change in legislation in his country of origin, he had ceased to be its national. He experienced several years of being detained in facilities for the detention of foreign nationals, expulsion custody or serving a prison sentence for frustrating the expulsion decisions. He stated that altogether he had been deprived of liberty for 7 years and 3 months. He did not recall how many times he was apprehended.

« *Seven years in custody altogether, I don't know how many times. Two times in 2012, in 2013 and again three months in 2014 in expulsion custody, six months in Prague west. And again, six months, three months, I was in the expulsion custody.*»

Repeated release from detention followed by arrests undermined the overall feeling of well-being and security. This stateless person lives in constant fear of being detained again. Indeed, from time to time, the scenario has repeated itself. Following a regular check by the police, he was arrested on the ground of an irregular stay and, while being subject to another decision on administrative expulsion, he was detained in a facility for the detention of foreigners. However, the decision on administrative expulsion could not be carried out as he could not be issued with a substitute travel document. He was then released and the situation may well repeat itself.

The accounts of all stateless persons described in the interviews shared certain similarities in this respect. It began with a loss of legal residence combined with an inability to leave the country within the time stipulated by the exit order. This was followed by an intervention by the authorities and their decision on administrative expulsion. At

that point, it appeared that the person is stateless and that there was no country where s/he could be expelled to. This meant that regardless of whether the individuals wanted to leave the country, they simply could not leave. The whole situation usually resulted in detention. However, its outcome was always the same and the attempts to forcibly return the person ended up in vain. Relevant authorities faced difficulties in effectively addressing the situation because they lacked legal instruments needed to this end.

« I am afraid that it could happen again on the twentieth when my exit visa expires. I have it every time when my visa is about to expire, for the visa always lasts for one month. It is hard psychologically. A person who assaults somebody receives a punishment. But me, who has done nothing to nobody, I have to wait every month to see whether something bad would happen. And now they are threatening me that they would lock me up for one year. Why would they detain me when I have done nothing wrong?»

After a certain period of time, the interviewed persons came to believe that their situation was hopeless. They could not regularise their stay and fell into a vicious circle of attempted expulsions and detention. They often stayed in the Czech Republic irregularly for many years. Realization of the hopelessness of their situation sometimes resulted in resignation.

« Then it was over. They [authorities] met with me twice when I was in detention and then they realized that there was no way to solve it (...). And then I lost hope. (...) It's like spinning in a circle. (...) They told me that they would release me from detention. But when they released me, (...) they did not give me an exit visa or anything else, they only gave me the passport and let me out. They locked me there only because I resided irregularly and then they released me as an irregular person again, without giving me anything or at least telling me what is happening with my case, what results they have.»

According to the collected testimonies, life spent between the periods of everyday isolation and repeated deprivation of liberty or a fear of being detained again resulted in the disintegration of basic temporal, spatial and social frameworks of life. Lives of the interviewed stateless persons were organised around the periods of deprivation of liberty and the periods at liberty. They lived in uncertainty with no realistic way out. The result was an adaptation of the life strategy to focus on survival and fulfilling basic needs. Persons interviewed during the research lived on the edge of society, marginalised and isolated. This led them to a psychological setting where they lived in a permanent feeling of “deprivation of liberty”. Their existence was that of a mere day-to-day survival.

« Every time they release me from detention and I am back on the street, I sleep on the street, I collect food from the trash. Then I manage to talk to somebody and find some work, I go to work and earn some money so I can find housing through some acquaintances. It is not possible legally, I don't have a contract, but I always live with somebody, in some room in a flat at friends and so on. And so I stay there for a while, I work somewhere, it settles and then they check me again and arrest and detain me again. I lose my housing, work, everything. Then they release me from detention and everything starts again. I end up on the street, at first I sleep outside, under the bridge. And then slowly I manage to earn some money and find accommodation, and then they lock me up again. It is over and over like this. After each time I am released I have to start from zero.»

6.8 Individual identity of stateless persons and its disruption

An individual's identity determines who the individual is, what distinguishes a person from the others and what the individual's relationships to other people are, including membership in particular groups.⁹⁹ It provides people with a basic framework for understanding who they are and where they are going. The interviews revealed that the identity of stateless persons is under severe pressure, marked primarily by erosion of the interviewees' social identity, which has negative consequences for one's perception of individual identity.

The stateless persons interviewed during the research doubted the value of their own lives, blamed themselves and experienced, in their own words, feelings of failure, defeat and resignation. Many considered themselves to be "useless".

« *If I were to be a normal person and exist, then I would have at least some rights. But if I am nobody, as a zombie, I have no right to talk or complain, I have no right. This is what I think. Whatever happened to me, it is my fault.*»

« *You can't do anything, anything at all. It's terrible. You can't even understand it yourself. (...) Like an idiot, I am only surviving here, really. It's hell. I am in a deadlock. Years go by and I am screwed.*»

« *Nobody can understand this, nobody. When I looked at my life, my only life, it's been the worst.*»

Many avoided even mentioning their situation to others. They cannot explain it and were simultaneously ashamed of it. Being stateless carries a stigma. This is not a topic discussed with friends or in public.

Almost all stateless persons interviewed during the research described that they had suffered from psychological problems. They talked about different symptoms that affected their behaviour and overall health. They described feelings of being disillusioned and hopeless, suffering from stress, anxiety and chronic insomnia. Some of the interviewed persons also explained that they were often irritable, which tends to be followed by loss of control (e.g. when dealing with the authorities) or feelings of worthlessness. In extreme cases, the interviewed persons manifested suicidal tendencies.

« *Thanks god I have a strong will, it is an extreme pressure, you don't know how long one can stand it.*»

« *I sleep badly, then I am nervous because of it, I am nervous and I cannot sleep, and then I think how scared I am about what could happen to me and ... you know what. (...) I am a person who really lives in fear. This is me. Nice to meet you. (...) I have to think about it all the time, I wake up at three in the morning. I don't know what I am doing, I walk across the apartment, then I go to sleep again, I cannot sleep properly, I sleep then I wake up. I have not slept normally for a long time, for example twelve hours or from midnight to eight, I can't.*»

« *I take it badly, I often have heart problems because it is all on me and there is nothing good about this situation.*»

« *I am a very nervous person. Psychologically. I can't communicate with anybody, because I am very nervous.*»

⁹⁹ Please note that "identity" is a multidimensional notion used in social sciences such as psychology, sociology or anthropology with no one official definition. The present statement is only a simplified description tailored to clarify the findings of the study.

« I used to be a person who could make a dead man laugh, I was funny, I took everything lightly, today I get angry about anything.”

« Sometimes I reflect about the price, why I live at all. I have a mom, a nice family, this is the only thing which stops me from ending my life, nothing more. I really do not have anything in this life.”

The interviewed persons also described experiencing the consequences of the sense of losing one’s own national identity. They perceived it as a betrayal or fraud, as a missing anchor and certainty in life. Some of them even internally identified themselves as stateless persons. For most of them though, this identity was only assigned to them or resulted from a situation that they had faced in life. Some tried to fight it but most eventually resigned and accepted that they are stateless.

« I feel like I am nobody. That’s it. A stateless person is nobody. Someone who does not exist. This is how I feel.”

« I am visible, but when you have no rights, you’re nobody. I just don’t exist as a normal person.”

« It feels terrible. Disaster. I feel inside like I am not a complete person.”

6.9 Future plans and prospects

The main life strategy of the stateless persons interviewed in the study revolved around finding a viable solution to their situation. Some of the interviewed persons still considered returning to their country of origin or former habitual residence. This option was preferred mostly by those who have families there and have obligations towards them. Nevertheless, their thoughts of returning were accompanied by doubts. Others were afraid of being forced to return as this would expose them to an environment where they do not belong or where they may be exposed to harm. They found it impossible to be returned to a place that they did not identify with.

Most interviewed persons were convinced that resolving their current plight by returning to the country of former habitual residence would not be possible. Regularising their stay by obtaining a residence status and finding stability in the Czech Republic appeared more realistic.

Indeed, the interviews have shown that despite described difficulties, the interviewed persons have formed ties to the Czech Republic over the course of their stay, often longer than 10 years. They are fluent in Czech and are adapted to the life in the Czech Republic. The loss of nationality has become an intervening variable in their lives. They believed that the solution resides in obtaining a residence status in the form of permanent residence that would allow them to live ordinary lives instead of the uncertainty which most of them experience. Their perceptions of the future were therefore closely linked to resolving their residence status. It shows that the preferred solution to statelessness is the eventual acquisition of Czech nationality, if there were a realistic pathway established in the national legislation.

« I am telling you, I know Prague better than the place I was born. I feel good here in any situation.”

« **Interviewer:** So do I understand it right that you feel more like Czech?

Participant: Well, I even dream in Czech already.

7 CONCLUSIONS

Conclusions drawn from the legal and statistical analysis can be divided into four main groups as follows:

1 Limits of statistical records and estimates of the number of stateless persons

Stateless persons are, to a certain extent, recorded in publicly available official statistics. However, difficulties were encountered when determining the exact number of stateless persons and obtaining further information about them. The data provided by different authorities varied from one another. The differences in data were caused by the following factors: (1) the official registers are not interconnected; (2) in some cases, the statistical code lists were inadequately structured so they did not indicate statelessness; (3) errors were made in the completion of statistical forms and sometimes nationality codes were wrongly assigned to stateless persons; (4) a separate category was created for stateless Palestinians. Moreover, while the statistics do not record persons staying irregularly in the country, which applies to many stateless persons without any documents, the phenomenon of statelessness cannot be fully captured. This gap makes the most vulnerable stateless persons virtually invisible to the authorities, diminishes its presence in the country and the necessity to be addressed. Nevertheless, analysis of the research data allows for an estimation to be made of up to 1,500 stateless persons in the Czech Republic in total.

2 Shortcomings in national implementation of the obligations under the 1954 Convention

The legal status of stateless persons and of the applicants for the statelessness status is not appropriately regulated by national legislation in force. First and foremost, there is no definition of a stateless person in national legislation, which causes further legal and statistical discrepancies. This is followed by the lack of a dedicated statelessness determination procedure that would open a door to one of possible permanent solutions for stateless persons in the migratory context. These shortcomings in the national implementation of the obligations pursuant to the 1954 Convention have specific consequences on the accessibility to the rights as well as on the legality of relevant administrative and judicial procedures. Finally, no status or residence rights ensue from the recognition of statelessness within the relevant procedures and the awareness of the authorities and courts about the legal position of stateless persons, still not recognized as a specific group, remains rather low.

3 Absence of an effective mechanism to identify stateless persons and ensure protection of their rights

The procedure provided for in Section 8 (d) of the Asylum Act according to which a person can apply for the determination of statelessness is limited in its practical effectiveness. In fact, by November 2018 it only existed on paper and was not used in practice. According to the information obtained during the research, the MoI has not undertaken any steps in any of the proceedings. Lodging an application pursuant to Section 8 (d) of the Asylum Act, therefore, has not secured the fulfilment of the State's obligations under the 1954 Convention.

In some cases, persons who have lodged the application under Section 8 (d) of the Asylum Act have been placed in detention and have been issued with (another) decision on administrative expulsion. There was, thus, no legal guarantee that expulsion would not take place until a final decision in the proceedings under Section (d) of the Asylum Act is rendered. The question of what the proceedings meant for the applicants and what the outcome will be also remain unclear under the current legislation. The lack of transparency of this procedure represented an obstacle to lodging applications for the determination of statelessness status and to the efforts of stateless persons who seek to achieve a formal recognition of their legal status.

4 Shortcomings in national implementation of requirements under Article 1 of the 1961 Convention

The acquisition of Czech nationality by children born in the territory of the Czech Republic who would otherwise be (or are) stateless is subject to conditions pursuant to the Czech Citizenship Act that go beyond the wording of Article 1 of the 1961 Convention. More concretely, there is a condition that at least one parent of such a child must have a permit to reside in the Czech Republic for a period longer than 90 days as of the child's birth. Moreover, the Mol will not grant nationality to a child born in the Czech territory who became stateless only as a consequence of the parent's failure to take necessary steps in relation to the authorities of his/her country of nationality that would subsequently ensure that the child obtains citizenship of that country upon birth.

In addition, conclusions drawn from the semi-structured interviews with stateless persons can be divided as follows:

1 Issues associated with addressing the legal and residence status of stateless persons

The testimonies have confirmed that national legislation has offered no effective and durable solutions for stateless persons without valid documents in the migratory context. Some of them were, therefore, subjected to repeated periods of irregular stay with limited or no legal avenues to achieve a permanent solution to their plight.

2 Lack of avenues to obtain identity and travel documents

The Czech Republic has made reservations to Articles 27 and 28 of the 1954 Convention, which concern identity and travel documents. The present research has shown that the absence of documents represented one of the most acute problems for stateless persons. The inability to prove one's identity causes a number of difficulties and prevents access to a whole range of rights and everyday matters, such as the ability to receive mail.

At the same time and as shown from the research undertaken, even if individuals were recognised as stateless persons in the Czech Republic, they would still be unable to travel abroad unless they obtained the Czech foreign national's passport, which is only reserved for persons with permanent residence pursuant to the reservation made to Article 28 of the 1954 Convention. The reservations made by the Czech Republic lead to a situation where persons cannot leave the country even after being recognised as stateless.

3 Expulsion decisions and repeated detention

Stateless persons were at risk of repeated deprivation of liberty while being subjected to the authorities' unsuccessful efforts to expel them from the country. Majority of stateless persons interviewed during the research have experienced detention for the purpose of expulsion, several repeatedly. Some of them were also sentenced to criminal expulsion (mostly for not respecting the previous orders to leave the country) and put in expulsion custody. Their lives were marked by fears of being apprehended and detained. Furthermore, stateless persons expressed their fears (mostly theoretical and as a backdrop to their lives) of being expelled to a place where they have no ties and do not belong.

4 Impact on the daily lives of stateless persons

The basic survival strategies of most stateless persons interviewed in the study revolved around finding ways to support themselves and find housing. Other aspirations became secondary. Starting a family was being postponed and other needs also remained unmet. Those persons who have long been exposed to an irregular situation believed that they have wasted their best years living in uncertainty with no effective help. They perceived their situation to be unfair.

Those stateless persons who found themselves in an irregular residence situation felt hopeless. The loss of their residence status brought with it restrictions on many aspects of their lives. It closed the door to the job market, resulted in the loss of a stable source of income which ultimately worsened the housing situation. Stateless persons lacking assistance networks often became dependent on irregular forms of employment, lived in temporary housing situations and many ended up homeless.

5 Impact of statelessness on private and family life and identity

The effects of the aforementioned issues are reflected in tensions in relationships, a decision made to not start a family, worries and a life led in fear with limited options to plan for the future. Statelessness is particularly stressful for parents who see it as a plight of the entire family that has a major impact on children's lives. The fact that a person is stateless also represents a barrier to forming social relationships and making friends. Some persons interviewed during the research perceived their status as a stigma, they avoid talking to others and from explaining their situation.

The consequences of statelessness and the associated unstable legal status also included a considerable psychological burden. Participants described their suffering from stress, anxiety and other symptoms that indicated the presence of untreated health problems. Longterm exposure to this situation often adversely impacted the self-perception and identity of stateless persons. They expressed feelings of exclusion, marginalisation, invisibility and an absence of support in life. They were aware of the practical impossibility of exercising their rights and felt frustrated by a situation they cannot resolve.

8 RECOMMENDATIONS

8.1 Legislation

UNHCR recommends adopting comprehensive legislation to appropriately implement the obligations towards stateless persons assumed by the Czech Republic under international law, in particular the two Statelessness Conventions, to:

- introduce a definition of a stateless person that corresponds with Article 1 of the 1954 Convention;
- establish clear and transparent procedures for the determination of statelessness, including relevant procedural safeguards;
- provide for the legal status of the applicants during such proceedings similarly to asylum-seekers and in line with UNHCR Handbook;¹⁰⁰
- provide for the legal status and residence rights for persons being recognised as stateless so that they effectively lead to a durable solution in the form of acquisition of nationality in line with UNHCR Handbook.¹⁰¹

UNHCR further recommends adopting amendments to legislation governing expulsion in order to ensure implementation of the obligations towards stateless persons enshrined under the Article 31 of the 1954 Convention. In particular, it is advisable to:

- amend the aforementioned legislative provisions governing administrative expulsion in the Aliens Act so that stateless persons are not subjected to the same rules as other foreigners;
- amend Section 80 (3) (a) governing the sentence of expulsion in the Criminal Code so that it covers the situation of establishing that a person is stateless in addition to the currently enshrined failure to establish nationality.

UNHCR further recommends amending the Czech Citizenship Act in order to ensure compliance with Article 1 of the 1961 Convention, in particular to:

- remove from Section 29 (1) of the Czech Citizenship Act the condition of a residence permit for a period of longer than 90 days of one of the parents;
- repeal the provision stipulated in Section 29 (4) of the Czech Citizenship Act, which conditions granting a nationality to a child on the parents' activity.

8.2 Training

UNHCR recommends that a suitable training for relevant decision-makers be ensured with regard to the Czech Republic's international obligations towards stateless persons and the avenues for the effective implementation of such obligations under the existing legislative framework. Training should be provided in co-operation with UNHCR, primarily to the following groups:

- civil servants at the Mol who decide on the applications lodged pursuant to Section 8 (d) of the Asylum Act;
- officers of the Foreign Police who decide on administrative expulsion and detention of foreign nationals;
- judges and their assistants at administrative courts competent to review the legality of the procedures conducted by the Mol and the Foreign Police.

¹⁰⁰ UNHCR, Handbook on Protection of Stateless Persons, cited above, para. 145.

¹⁰¹ UNHCR, Handbook on Protection of Stateless Persons, cited above, para. 148.

8.3 Statistics

As **short-term measures**, UNHCR makes the following recommendations:

- Establish within all statistical code lists a separate code for a “stateless person”.

Since stateless persons are particularly vulnerable, all code lists across all registers should only operate with a single category of “stateless” in order to make the category more visible and, thus, avoid overall marginalisation of the group. This also entails avoiding merging this code with other residual codes. It is also advisable to minimise the use of the “unknown” category as it lacks any probative value and represents an inadequate tool to accurately identify stateless persons.

- Methodologically define the category of “stateless person” to facilitate its determination by civil servants and police officers.

It is advisable to ensure that the relevant persons be recorded under the code “stateless person”. Even where the code currently exists in certain statistical forms, it is often incorrectly used and results in further discrepancies with the data. UNHCR recommends to methodologically guide the persons responsible for collecting and entering data in the statistical records of foreign nationals and increase their awareness of the statelessness phenomenon.

- Regularly publish information on the number of applications in the statelessness determination procedure pursuant to Section 8 (d) of the Asylum Act;

Monthly statistical reports on international protection published by the MoI should incorporate the numbers of applications lodged in the procedure for the determination of statelessness, which is to be handled and decided by the same decision-makers as in asylum matters. This step would shed more light on the number of stateless persons or persons with unresolved nationality in a migratory situation, whose legal status remains unresolved.

As **long-term measures**, UNHCR further recommends to:

- reliably record complete statistical data regarding the statelessness determination procedure.

Only an effective and clearly defined mechanism for the identification of stateless persons in a migratory situation with a set of complete statistical records devoted thereto, can sustainably contribute to the correction of some existing limits in respect of the statistical record of statelessness in the migratory context.

- conduct a complex research focused on in situ¹⁰² statelessness in the Czech Republic

In order to complement this study whose focus was confined mainly to statelessness in a migratory context, research on in situ statelessness should be commissioned by the government. Only reliable information and data on in situ statelessness addressing both its causes and extent can reliably show the full scope of the practically invisible phenomenon of statelessness. The more complex study should approach settled communities of immigrants and their second generation, i.e. children born in the Czech Republic as well as ethnic minorities whose access to information and authorities may be limited.

¹⁰² Meaning “in their own country” or the country where they were born. As explained in the UNHCR’s Handbook (para. 58), the phrase “own country” is taken from Article 12(4) of the International Covenant on Civil and Political Rights (ICCPR) and its interpretation by the UN Human Rights Committee.

8.4 Ensuring access to assistance

Given the social exclusion faced by some stateless persons, UNHCR recommends to:

- expand the list of beneficiaries listed in Section 4 (1) of the Social Services Act¹⁰³ to include persons recognised as stateless and applicants for this status;
- incorporate in the assistance system intervention methods of a social-preventive character aimed at stateless persons;
- ensure targeted education of social workers assisting foreign nationals so that they are aware of the social situation of stateless persons and are able to adequately respond.

¹⁰³ Act No. 108/2006 Coll., on Social Services, as amended.

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ANNEX:

PERSONAL STORIES OF STATELESS PERSONS

Note: names and other personal details of study participants have been changed



Name: Igor

Country of birth: Soviet Union (Kazakhstan)

Arrival in the Czech Republic: 2000 | **Stateless since:** 2012 | **Current legal status:** none

Igor has been living in the Czech Republic since he was 18 years of age. He has spent half of his life there. For over six years now, he has no citizenship, which was officially certified by the embassy of his country of origin. He originally comes from Kazakhstan. He left that country due to increasing hatred and discrimination against the Russian minority, to which he and his family belong. After his father was killed, he arrived in the Czech Republic with his mother and sister based on a short-term visa and valid travel documents and applied for asylum. The proceedings took several years to be finally rejected. For several more years, Igor lived in the country based on a long-term residence permit for business purposes. In the meantime, his mother and sister obtained permanent residence. Igor then lived with his Ukrainian girlfriend who lives in the Czech Republic based on a permanent residence permit. However, Igor then fell victim to a fraud by an intermediary who offered him to arrange an extension of his residence permit in exchange for money. As a result, Igor lost his long-term residence permit and it became difficult to obtain another one afterwards. At the same time, the passport of his country of origin expired. When he went to the Kazakh embassy to arrange a new passport, the embassy employees informed him that Kazakhstan would not issue him with a new travel document. It turned out that Kazakhstan no longer considered him a citizen. Igor then applied for international protection (asylum) again. Upon lodging the application, the police initiated administrative expulsion proceedings. During the proceedings, Igor informed the police that he believed he was a stateless person. The police did not reflect the statement in its decision in any way and decided on administrative expulsion without the possibility to return for three years. However, its enforceability was postponed until the final decision in the asylum procedure was made. The second application for international protection was eventually rejected after several years. For the entire time, Igor has lived in the Czech Republic with his girlfriend. They have been together for 10 years and have a son who was born three years ago; the child has a permanent residence permit. Igor wishes to marry his girlfriend and have a second child. However, his current residential situation and the lack of documents makes this impossible.

« *Yeah, she's a good girl, mother and woman. I would have married her immediately if I had a passport. But I do not have it, so I cannot. (...) When I was still in the [asylum] procedure, we were thinking of a second child, but clearly we are postponing it now. Because with my papers, you will not do it.*

After being rejected in the asylum procedure, Igor was issued a departure order. However, he is unable to leave the Czech Republic because he has nowhere to go. At the same time, he has his entire family there and has lived there for his entire adult life. He cannot imagine being forced to leave his son and girlfriend. He tried to apply for a tolerated stay visa and for a permanent residence but without success.

« *I've got nothing in Kazakhstan. I don't have its citizenship, I have no passport, I can't even travel there. I don't understand why they ignore the fact that I have a family here...*

He now lives in great uncertainty and permanent fear of being detained based on the previously imposed administrative expulsion. He is afraid that it would cause trauma to his son and family. He has lodged an application pursuant to Section 8 (d) of the Asylum Act to be recognized as a stateless person. However, the MoI has yet to respond. In administrative decisions, he is referred to as a Kazakh citizen.



Name: Dmitry

Country of birth: Soviet Union (Russia)

Arrival in the Czech Republic: 2001 | **Stateless since:** 1991 | **Current legal status:** none

Dmitry has been living in the Czech Republic for 17 years. He arrived when he was 44 years old on the basis of a valid visa and a passport issued by the Soviet Union. He was born in a labour camp in Siberia; he has no certificate of birth. He spent part of his life in Ukraine with his parents. He spent another part of his life in the Russian Federation where he had a wife and children. The situation worsened for them and Dmitry and his wife left for the Czech Republic. Their children were taken care of and so they stayed. Upon his arrival, Dmitry had applied for international protection but the procedure was discontinued and, in the meantime, the validity of his Soviet passport had expired. Since then, he unsuccessfully tried to obtain a new travel document, both at the Ukrainian and Russian embassies. However, neither of the two countries consider him a citizen and so both refused to issue him any document.

Afterwards, Dmitry lived in the Czech Republic irregularly and tried to make a living as an unregistered worker. He has always done heavy manual work and has suffered several injuries in the process. He could not leave the country, neither could he obtain a residence permit in the Czech Republic. His wife passed away and he has not been in contact with his children for many years.

In 2011, Dmitry received a decision on administrative expulsion without the possibility to return for three years. However, he was unable to comply because he could not travel to Russia or Ukraine. In 2013, Dmitry was found guilty by a court in criminal proceedings for failing to comply with the administrative expulsion and sentenced to expulsion without the possibility to return for two years. Eight months later, he was sentenced again for frustrating the performance of the previous expulsion sentence. This time, he was sentenced to expulsion without the possibility to return for three years. Two years later, in 2015, he was again punished for frustrating previous decisions and sentenced to expulsion without the possibility to return for five years and imprisoned for 10 months. After serving the prison sentence, Dmitry remained in prison, this time on the grounds of expulsion custody. He spent 10 more months there, during which time the police unsuccessfully attempted to expel him. After several months in custody, in March 2017, he lodged an application pursuant to Section 8 (d) of the Asylum Act to be recognised as stateless. Neither the MoI, nor the criminal court responded thereto. Five months later, the latter decided to suspend the execution of the expulsion sentence on the grounds that expulsion is not achievable. Dmitry was released from prison but stayed in the country without a legal status or any possibility to resolve his residence situation. He is not eligible to receive a tolerated stay visa since he was recorded in the register of undesirable persons on account of the numerous expulsion orders he was subjected to. He has applied for international protection a number of times and always with zero success. He is still unable to leave the country.

The MoI has not responded to his application lodged pursuant to Section 8 (d) of the Asylum Act. For this reason, Dmitry petitioned the administrative court. His claim was upheld in November 2017, while the court found unlawful delays in the procedure and ordered the Ministry to make a decision within 30 days. Nevertheless, nothing has happened since then.

In 2018, Dmitry was stopped by the Foreign Police and received another decision on administrative expulsion without the possibility to return for three years. This time, he was subjected to an alternative to detention in the form of a duty to report to the Foreign Police every week. He failed to comply once because of a misunderstanding and was consequently detained again for the purposes of administrative expulsion. As of the date of the research, Dmitry was held at a detention facility. The originally prescribed detention period had been extended and so the detention was to last for a maximum legal period of six months.

The MoI has still not responded to Dmitry's application in the statelessness determination procedure.

In administrative decisions, he is referred to as a citizen of the Russian Federation.



Name: Ahmad

Country of birth: Saudi Arabia

Arrival in the Czech Republic: 2013 | **Stateless since:** birth | **Current legal status:** none

Ahmad arrived in the Czech Republic five years ago when he was 22 years old. He arrived with a valid tourist visa and a Palestinian passport. He came to Europe with a view to applying for international protection. He was born in Saudi Arabia to Palestinian refugee parents who are stateless. He, too, has been stateless since birth. He had lived in the country until he was 21 years old as a student. Afterwards, he had no possibility to stay there legally, as Saudi Arabia does not offer stateless persons in his situation any options. Palestinians living there irregularly face systematic discrimination. They cannot own property, marry or get medical care at a hospital. Their children are born undocumented.

« *Children do not receive any birth certificate, because they're not born into wedlock. They can't go to school. It's the worst situation. Yes, you survive, you won't go to prison, but you're in a terrible predicament. It is killing you slowly.* »

At that time, Ahmad's residence permit in Saudi Arabia was about to expire in a year. He decided to leave the country beforehand and apply for international protection in another country.

Ahmad applied for international protection in the Czech Republic twice, both times unsuccessfully. He was then ordered to leave the country so he applied for voluntary return. However, it turned out that his departure could not be carried out. He cannot go back to Saudi Arabia without an entry visa, while the country has repeatedly refused to issue it. He cannot go to Palestinian territories either. He was not born there and has never lived there. His mother is originally from the Gaza Strip. However, the West Bank administration has no records of him and so he was not assigned a Palestinian identification number. Although the embassy has issued him a Palestinian passport, that document does not entitle him to enter the country. Moreover, entering Palestinian territories is only possible via Jordan. Jordan also refuses to allow Ahmad to enter its territory because there is no guarantee he would leave. Ahmad is, thus, at a deadlock.

« *I was born with two curses – a Palestinian passport and, on top of that, born in Saudi Arabia. This is the worst combination. In time, I've come to realize it. But I couldn't have known. I don't know what to do.* »

In 2017, Ahmad received a decision on administrative expulsion without the possibility to return for two years. After a few months, he was detained at a facility for the detention of foreigners. He again applied for voluntary return and co-operated with the MoI. After a month, he was released since he had no place to return to. Yet, he has no avenue to regularise his residence. He applied for the revocation of the administrative expulsion order but without a positive outcome. His application for a tolerated stay visa was rejected because he is recorded in the register of undesirable persons on account of the existing expulsion order.

In March 2018, he lodged an application in the statelessness determination procedure pursuant to Section 8 (d) of the Asylum Act. The MoI is yet to respond.

A month later, another administrative expulsion was imposed upon him, without the possibility to return for three years. The deadlock continues and Ahmad is afraid of being detained again.

In administrative decisions, he is referred to as a Palestinian citizen.



Name: Anna

Country of birth: Soviet Union (Ukraine)

Arrival in the Czech Republic: 2008 | **Stateless since:** 2015 | **Current legal status:** none

Anna has lived in the Czech Republic for 10 years. She originally comes from Ukraine. As a young woman, she married a Bulgarian citizen and moved to Bulgaria to be with her husband. She lived in Bulgaria for many years on the basis of a permanent residence permit. She and her husband had a daughter. Anna later applied for Bulgarian citizenship. However, after many years of physical abuse and beating, she separated from her husband. At the age of 45, she moved to the Czech Republic in order to work and live with her daughter who studied there.

In the meantime, Anna received a promise of citizenship from the Bulgarian authorities. The condition, however, was to renounce her Ukrainian citizenship. In 2011, she renounced her Ukrainian citizenship. However, it took the Ukrainian authorities a long time to complete the process and she was only given a confirmation of renouncement in 2015. Anna then submitted the confirmation to the Bulgarian authorities. However, after a long time, the Bulgarian authorities discontinued the pending proceedings and Anna was not granted the Bulgarian citizenship. She has been stateless since 2015.

« They forced me to renounce my only citizenship. This is an issue between Bulgaria and Ukraine – Ukraine wants people to only have one citizenship. So I renounced it because they [the Bulgarians – interviewer's note] requested it. (...) I thought they were doing something, but they weren't. Every six months, I brought a new extract from criminal records and waited. I tried. I even have certificates proving I submitted the papers, every six months. (...) I don't understand where I made a mistake. What did I do wrong? And have I done anything wrong at all? I don't feel like I have.»

After some time, the validity of the Bulgarian permanent residence permit had expired. In the meantime, she had lost her Ukrainian passport. As a result, she has no valid document and limited means of regularising her residence. She cannot extend her permanent residence in Bulgaria, as she has not lived there for 10 years and has no ties to that country any longer. However, she has no residence permit to stay in the Czech Republic either, despite the fact that her entire family lives there. She stays with her daughter and her daughter's husband, who are expecting a baby. She has also had a Czech boyfriend for several years now.

Anna finally decided to apply for international protection, asking for assistance in addressing her plight as a stateless person. However, the asylum procedure was discontinued as, according to the Dublin system, Bulgaria is the country responsible to assess her application. In October 2018, she lodged an application in the statelessness determination procedure pursuant to Section 8 (d) of the Asylum Act, following advice provided by her legal counsel.

In administrative decisions, she is referred to as a stateless person.



Name: Mikhail

Country of birth: Soviet Union (Georgia)

Arrival in the Czech Republic: 1991 | **Stateless since:** 1991 | **Current legal status:** none

Mikhail has lived in the Czech Republic since he was 18 years of age. He was born in Georgia with Ossetian origin. At the end of the 1980s, when he was 14 years old, he and his parents left Georgia for Russia to escape growing tensions concerning the autonomy of South Ossetia. Since then, he tried to study and work at the same time in order to support his family and his sick mother. However, due to his origin, he faced problems and eventually decided to leave.

« As people [from Georgia - interviewer's note] were leaving for Russia, the Russians didn't like it. They tried to push me out of their country. I was a young boy, not even an adult then. I was assaulted by the police a few times and so I rather left saying "The whole USSR has gone crazy!" But I couldn't have known I would have this problem of being left with no citizenship.»

Mikhail arrived in the Czech Republic for work in 1991, before the dissolution of the Soviet Union. For the first couple of years he stayed on the basis of a residence permit and worked for a Georgian national he knew from before. However, the man exploited him and forced him into slave labour. After several years, the validity of Mikhail's Soviet passport expired. While he managed to escape slave labour, he could not regularise his residence status due to the lack of documents. He sought asylum in Germany but the German authorities returned him to the Czech Republic. He then applied for asylum in the Czech Republic. After several years, the procedure was discontinued. Mikhail was then ordered to depart. However, he was unable to do so. He could not obtain travel documents, either from the Georgian or the Russian embassy. Neither country considered him as a citizen. He has a birth certificate issued by Georgia but the embassy informed him that he is not recorded in Georgia and refuses to recognise him. Both countries have issued certificates proving that Mikhail is not their citizen. In 2014, he received a decision on administrative expulsion order without the possibility to return for one year, and another one for two years in 2016. He tried to explain during the expulsion proceedings that he was unable to depart because neither country considered him a citizen. He continues his efforts to communicate with the Russian and Georgian embassies but without any success. The police have issued him a travel identity card (a provisional document issued by the Czech authorities to allow for departure from the country). Still, Mikhail has nowhere to depart even with this document.

Mikhail wants to go to Russia where he still has his parents who have received Russian citizenship after the dissolution of the Soviet Union. His mother is ill and Mikhail wants to take care of her before she passes away. This is not possible though. The Russian embassy rejected his visa application. Russia does not recognise the travel identity card that Mikhail received from the police. He could leave only if he had an Alien's Passport but the Czech Republic issues this type of travel document solely to foreigners who have been granted permanent residence in the country. Mikhail is, thus, at a standstill.

« In the 21st century, when people fly to Mars, I am here on the planet Earth and cannot get from a point A to a point B to see my parents and take care of them. That indifference, it's hideous, nothing human. All humanity is skewed. When you say this to a normal person, he thinks and says, "Jesus, let's make an exception, and we'll send him there." But there is no such exception, a person has become only a registration number. They look at the computer screen and say: "This number lacks this and that, so we won't issue him anything." People are treated as case files and numbers. Nothing else, no emotions.»

In August 2018, Mikhail lodged an application in the statelessness determination procedure pursuant to Section 8 (d) of the Asylum Act. The MoI is yet to respond.

In administrative decisions, he is referred to as a Georgian citizen.

STATELESSNESS

« I used to think that
if you don't have citizenship,
it means you're home everywhere.
If you don't have citizenship, you're a world citizen,
aren't you? That's what it's meant. But it is not like that.
You're home nowhere. Never.

ANNA