

## Closed detention in the Czech Republic: on what grounds?

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People who arrive by air in the Czech Republic claiming asylum are transferred to a 'reception centre' at Prague's Vaclav Havel Airport. Although they are deprived of their liberty, have limited access to fresh air and to the internet, and are only allowed to use a payphone, asylum seekers at the centre are not treated as criminals and detainees report that conditions in the reception centre are moderately good. However, there are some significant problems in the Czech Republic's current practice of detaining applicants for international protection.

Firstly, there is a marked lack of attention paid to individual circumstances. Leave to enter the territory must be granted if the applicant is a vulnerable person. The Czech Asylum Act defines applicants as vulnerable if a person is an unaccompanied minor, a parent or a family with minors or with disabled adult members, a seriously disabled person, pregnant woman or a person who has been tortured, raped or subjected to any other forms of mental, physical or sexual violence. However, since the decision to allow entry or not is in almost all cases issued prior to the Ministry of Interior hearing applicants' reasons for leaving their country of origin, it is hard to see how it could be judged whether or not, for example, they have suffered physical or mental violence; the measures to recognise vulnerable persons are limited to considering the age of the applicant – i.e. whether the asylum seeker is a minor or not. Nearly all applicants are therefore detained in the closed reception centre rather than admitted into the territory.

Secondly, in justifying refusal to enter (and therefore permitting detention in closed facilities) there is extensive application of the Czech Asylum Act's grounds of a well-founded assumption that the applicant would threaten 'public order'. The language of the law in this respect provides little clarity on the details, allowing for wide interpretation. It is interesting to note that the Ministry of Interior's decisions based on these grounds reveal an apparent predisposition to believe that applicants are misusing the refugee status determination procedure in order to try to enter the territory without proper documents or visa and that this constitutes a potential

threat to public order. This interpretation has been repeatedly backed up by the courts.

Thirdly, even after applicants have been admitted into the territory for further consideration of their claims, they are still detained in closed facilities. The Czech Asylum Act states that once granted leave to enter the territory, the applicant should be transferred to the reception centre on the territory – but this centre is also a closed facility. The legal basis for continued deprivation of their right to liberty is not at all clear. Article 5 para 1(f) of the European Convention on Human Rights<sup>4</sup> allows for "the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country". It is highly questionable, therefore, whether further limitation of the right to freedom after a person has been granted entry is allowable or justifiable.

### Recommendations

- In-depth personal interviews should be conducted with applicants before a decision about allowing or refusing access to the territory is made.
- If the applicant for international protection is granted leave to enter the territory, the applicant should be transferred to an open camp where applicants are allowed to leave for up to 24 hours.
- In cases of applications under the Dublin Regulation where the court needs to determine which member state is responsible for the application, the applicant should be transferred to an open camp.
- It should not be assumed that asylum seekers are unwilling to cooperate with the authorities on the refugee status determination process. The reception centre on the territory should not be a closed facility.

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1. <http://tinyurl.com/EConvHR>