



To the Special Rapporteur on the human rights of migrants: Human rights violations at international borders: trends, prevention and accountability

Submission of the Public Defender of Rights of the Czech Republic

The Public Defender of Rights of the Czech Republic presents the submission concerning the Special Rapporteur's call for inputs. The Defender does not have information to answer all questions of the Special Rapporteur. Therefore, this submission elaborates only on questions 1 and 3.

Question 1: Please provide information on any recently adopted domestic legislation amending border entry, asylum and other international protection procedures for non-nationals since May 2021. Grateful if you could kindly submit the original text of the relevant provisions of the legislation or policy(ies), accompanied by an English translation if it is in a language other than English, French or Spanish.

The Defender dealt with cases of complainants whose family members were in countries with an extreme risk of being infected by covid-19. From June to August 2021, the Ministry of Health took protective measures to prohibit the entry of these persons unless they had some type of residence permit in the Czech Republic.

In a letter to the Minister of Health, the Ombudsman pointed out that the immediate family members of EU citizens who have exercised their right to free movement have the right to enter the territory and also the right to obtain an entry visa. This also applies to a foreigner who is a family member of a Czech citizen. In the case of other family members (e.g. partners in a permanent relationship), the Member State is to facilitate their entry and residence.

The Ombudsman considered a complete ban on entry from countries with an extreme risk of disease to be a disproportionate measure. Furthermore, the Ombudsman pointed out that such people should be able to apply for a short-stay visa. The Ministry of Health complied with the Ombudsman's suggestion in the new measure and also allowed short-stay visa applications in countries with an extreme risk of disease.

Question 3: Please provide information on how the “safe third country” concept is applied and if there is any “safe third country” list in your country with the view to expedite border immigration and asylum procedures, as well as on any bilateral and multilateral agreement on collective/automatic re-admission of migrants of specific nationalities.

The „safe third country“ concept is laid down in the § 2, para. 1, point m) of the Asylum Act (Act No. 325/1999 Coll., as amended). However, there is no list of safe third countries and to our knowledge the concept is not widely used in the Czech Republic. There is a list of bilateral agreements on readmission: <https://www.mvcr.cz/migrace/soubor/prehled-readmisnich-dohod-leden-2018.aspx>. Previously, aliens under these readmission agreements were detained and readmitted without a non-refoulement assessment. However, the legislation has changed so that such facilitated extradition now only operates on the basis of readmission agreements within the EU.