

**REPLIES TO QUESTIONS RAISED BY THE SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS
OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE IN
RELATION TO FIRST THEMATIC REPORT**

THE CZECH REPUBLIC

- **Steps taken to ensure that access to citizenship and naturalisation is granted on an equal basis i.e. without discrimination on grounds of race, colour, descent, or national or ethnic origin**

The acquisition of citizenship of the Czech Republic (by naturalisation and other modes) is regulated by Article 12 of the Constitution of the Czech Republic and by the Act No. 186/2013 Coll., on Citizenship of the Czech Republic (also the Czech Citizenship Act). The act entered into force on 1st January 2014.

Article 12 (1) of the Czech Constitution reads: *“The conditions under which citizenship of the Czech Republic is acquired and lost shall be provided for by statute.”* The conditions regulating access to citizenship and naturalisation are thus to be determined by the act of the Parliament exclusively. It is not possible to modify conditions for access to citizenship and naturalisation by executive orders. The Czech Constitution further stipulates in Article 12 (2): *“No person may be deprived of his citizenship against his will.”*

The Czech Citizenship Act contains no provision giving the advantage or disadvantage to applicants on grounds of race, colour, descent, or national or ethnic origin. The main criterion for naturalisation is integration of the applicant into Czech society. Information relating to his / her race, colour, descent, or national or ethnic origin is not relevant in naturalisation procedures and the Ministry of the Interior does not request any such information.

The responsible authorities (in particular the Ministry of the Interior) do not apply any internal rules or practices that contravene the principle of access to citizenship and naturalisation on equal basis, i.e. without discrimination on grounds of race, colour, descent, or national or ethnic origin. Any use of these prohibited criteria would break the law and the victim could benefit from judicial protection.

The differentiated treatment is applied only in relation to citizens of other EU Member States, Switzerland and the EEA States. To be eligible for naturalisation under Section 14 (1) of the Czech Citizenship Act, an applicant who is citizen of another EU Member State, Switzerland or the EEA State has to prove that he / she had resided continuously for at least 3 years in the territory of the Czech Republic (based on a residency permit) prior to submitting the application. A national of the non-EU state (a third country national) has to prove that he / she had resided continuously in the territory Czech Republic (based on a residency permit) for at least 5 years. This differentiated treatment is based on the different legal status of both categories of applicants, not on grounds of race, colour, descent, or national or ethnic origin.

- **Efforts to combat gender discrimination affecting racial, ethnic and other minorities with regard to access to citizenship and nationality**

The Czech legal order does not allow any discrimination based on gender, including gender discrimination affecting racial, ethnic and other minorities. **The Government Strategy for**

Equality of Women and Men for the period 2014 -2020¹ addresses the situation of migrant women and notes their special vulnerability and often also marginalised position in the Czech society. Projects targeting migrant women are financed by the Ministry of the Interior and the Office of the Government of the Czech Republic (Gender Equality Unit) and implemented by some NGOs.

- **Efforts to remove barriers for the naturalisation of long-term or permanent residents belonging to ethnic and racial minorities and other groups, including people without nationality.**

The Czech Republic takes both the legal and practical steps to remove barriers for the naturalisation of permanent residents, including those belonging to ethnic and racial minorities and other groups and people without nationality (stateless persons).

To remove practical barriers to naturalisation by permanent residents, the Ministry of the Interior provides the target groups with information on citizenship and naturalisation in foreign languages (albeit knowledge of Czech language at B1 level of the Common European Framework of Reference for Languages is a precondition for naturalisation). Leaflets available at regional offices (krajské úřady) are printed in Czech, English, Russian, Ukrainian and Vietnamese languages.

According to Section 14 of the Czech Citizenship Act, one of the conditions for naturalisation is demonstrating knowledge of the Czech language and basic knowledge of the Czech constitutional system and a basic understanding of Czech culture, society, geography and history. This knowledge is demonstrated by passing the Czech Citizenship Exam. A special web page was set up to help applicants for naturalisation to prepare for the exam.² The web page is available in Czech, English, Russian, Ukrainian and Vietnamese languages.

A person without nationality (a stateless person) enjoys a slightly more favourable status when applying for the Czech citizenship since some conditions for naturalisation (in particular conditions relating to the length of permanent residence in the territory of the Czech Republic and conditions relating to the economic self-sufficiency of the applicant) can be waived by the Ministry of the Interior.

It is also important to note that at present, the Czech legislation allows for double and multiple citizenships. A permanent resident who applies for the Czech citizenship can retain his or her previous citizenship or citizenships. Similarly, a Czech citizen applying for the citizenship (nationality) of another state does not lose his or her Czech citizenship.

- **Steps taken for the regularization of former citizens of predecessor states**

The last significant change related to the statehood of the Czech lands (Bohemia, Moravia and Czech Silesia) was the division of the Czechoslovak Federation in 1993 into two independent states - the Czech Republic and the Slovak Republic. Prior to the division of the Czechoslovak federation, the Czech and Slovak citizenships existed at the state level, in

¹ The Strategy was approved by the Government of the Czech Republic in 2014. The Strategy is available in English at https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/Projekt_Optimalizace/Government_Strategy_for-Gender_Equality_2014_2020.pdf

² The web page is available at http://obcanstvi.cestina-pro-cizince.cz/?p=&hl=en_US

addition to the federal Czechoslovak citizenship. Through the division of the Czechoslovak Federation, the citizens of the Czech Republic automatically turned into the citizens of the new, independent Czech Republic and citizens of the Slovak Republic turned into the citizens of the new, independent Slovakia. In certain cases, the law allowed for the option of citizenship. Initially, such options led to the loss of original citizenship, later changes in legislation allowed both citizenships to be preserved.

The splitting-up the Czechoslovak Federation was linked with some problems in the area of citizenship. For instance, there was a very small group of Czechoslovak citizens for whom it was not possible to determine their citizenship under the applicable norms. Therefore, the law allowed these citizens to choose their new citizenship. There have also been several important litigations, concerning, in particular, the interpretation of the conditions for option. Due to subsequent, piecemeal remedial changes in legislation, the initial problems linked to the emergence of two successor states have been fully overcome.

At present, there are no cases, where due to the division of the Czechoslovak Federation, persons have lost their citizenship and became stateless. Rather, the division of Czechoslovakia led to many cases of dual Czech and Slovak citizenships.

- **Measures taken to ensure that provisions to strip individuals of their nationality comply with State's obligations to ensure the non-discriminatory enjoyment of the right to nationality**

As have been already noted, the Constitution of the Czech Republic stipulates in Article 12 (2) that no person may be deprived of his citizenship against his will. The Czech citizen can voluntarily relinquish his / her Czech citizenship by declaration, provided that he / she lives permanently abroad, he / she is not registered as a permanent resident in the Czech Republic, and he/ she has a citizenship (nationality) of another state or has applied for the citizenship (nationality) of another state. This is the only mode of loss of Czech citizenship provided for by law.

- **Measures taken to prevent and reduce statelessness of persons belonging to racial, national and ethnic minorities**

As mentioned above, Czech citizens, including citizens who belong to racial, national or ethnic minorities, may relinquish Czech citizenship only if they live permanently abroad, are not registered as permanent residents in the Czech Republic and enjoy citizenship (nationality) of another state or apply for the citizenship (nationality) of another state.

As described above, the naturalisation of stateless persons in the Czech Republic is facilitated.

- **Laws and policies imposing restrictions on immigration on the basis of nationality**

The Czech Republic is a member of the European Union and part of the Schengen area. The conditions for entry into the territory of the Czech Republic are laid down in Regulation (EC) No 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code). The Schengen Borders Code is uniform for all members of the Schengen area. The

Schengen Borders Code does not discriminate against citizens of any country on the grounds of their ethnicity or related grounds. The citizens of the Member States of the European Union (EU citizens) have the right to free movement and therefore they enjoy a different legal regime.

The Czech Republic does not limit access to immigration for particular nationality or nationalities. However, the Government of the Czech Republic introduced special programs for citizens of certain countries (especially Ukraine) due to high interest of Ukrainian citizens to work in the Czech Republic. The measures involves in particular increasing the capacity of Czech embassies and speeding up the handling of applications.

- **Safeguards designed to ensure that immigration laws, policies and practices do not discriminate – in purpose or effect – against certain groups of non-nationals**

As stated above, the citizenship legislation does not contain any discriminatory provisions, and the Charter of Fundamental Rights and Freedoms, which forms a part of the Czech Constitutional order, prohibits any discrimination. Discriminatory treatment of applicants for citizenship would therefore be contrary to the law. If the applicant believes that he / she had been discriminated against in the naturalization procedure, he / she may file an appeal against the negative decision. If the negative decision is confirmed by the Minister of the Interior, the applicant can bring an action before a court against the decision of the Minister of the Interior. There is no legal entitlement to citizenship (nationality), but the applicant has the right to fair treatment.

Finally, it should be noted that if the Ministry of the Interior refuses to grant citizenship to the applicant due to the fact that he poses threats to state security, judicial review is not possible.

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