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legal aid icon

In 2022, pressure fuelled at the borders during the mass influx of migrants and alleged pushbacks, with reports of asylum seekers being denied access to legal information and legal aid and being processed rapidly in border procedures.884 International and European human rights organisations called for increased accountability of national authorities and the establishment of a robust and accessible legal aid system at the borders, while ensuring the quality of legal aid, proper remuneration and access to border, detention and reception facilities. 885

ECRE886 and other civil society organisations887 commented on the Proposal for a Regulation 888 of the European Parliament and of the Council addressing situations of instrumentalization in the field of migration and asylum. They underlined the risk that applicants who were subject to the border procedure were not ensured all procedural safeguards, including access to legal aid. The organisations called for an express mention of the right to “professional and independent legal assistance and representation” as an essential safeguard in the asylum procedure.

Based on its recent survey on legal aid in the asylum procedure, the CCBE found that most EU+ countries did not have permanent offices for legal assistance at the borders. It recommended to establish such information points not only at the border but also in metropolitan areas, especially in situations of a massive influx of migrants. The CCBE noted, however, that private lawyers and civil society organisations had set up some legal information points at the borders. 889

The European Network of NHRIs published a report on accountability at the border and underlined that “the provision of legal assistance and representation must be a central element of a human rights accountability system at borders”. The network mentioned good communication between the lawyer and asylum applicant, qualified lawyers and access to premises as being pre-conditions to ensure that the legal aid system is well-functioning, accessible and with quality services.890

In Greece, civil society organisations reported that detained asylum seekers had limited or no access to legal information and legal assistance *(see Section 4.8)*.[891] Likewise, CIRE suggested that the reform of the Aliens Act should include that the principles and safeguards which are enshrined for criminal detention (the Salduz law in Belgium) be applied to immigration detention, including the detention of asylum seekers. The proposal was based on extensive comparative analysis which found significant differences in procedural safeguards for people detained in criminal proceedings compared to those subjects to asylum- and migration-related detention.[892]

The NGO 'I have Rights' in Greece mentioned that the planned restriction on the use of the Internet in the CCAC in Samos would make it more difficult for applicants to access legal aid.[893]

- 884Border Violence Monitoring Network. (2023). Input to the Asylum Report 2023. https://euaa.europa.eu/sites/default/files/2023-06/Border_Violence_Monitoring_Network.pdf
- 885Council of Bars and Law Societies of Europe. (2022, November 25). CCBE recommendations on a framework on legal aid in the field of migration and international protection. https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/MIGRATION/MIG_Position_ CCBE-recommendations-on-a-framework-on-legal-aid-in-the-field-of-migration-and-international-protection.pdf; European Network of National Human Rights Institutions. (2022, July 28). Strengthening human rights accountability at borders. https://ennhri.org/strengthening-human-rights-accountability-at-borders-report/; European Network of National Human Rights Institutions. (2022, April 29). How an NHRI's legal functions can ensure accountability at borders. https://ennhri.org/news-and-blog/nhris-legal-functions-ensure-human-rights-accountability-at-borders/
- 886European Council on Refugees and Exiles. ECRE comments on the commission proposal for a regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum. https://ecre.org/wp-content/uploads/2022/01/ECRE-Comments-Instrumentalisation-January-2022.pdf
- 887European Council on Refugees and Exiles (ECRE) et al. (2022, September 8). Joint Statement: NGOs call on Member States: Agreeing on the Instrumentalisation Regulation will be the Final Blow to a COMMON European Asylum System (CEAS) in Europe. https://ecre.org/joint-statement-ngos-call-on-member-states-agreeing-on-the-instrumentalisation-regulation-will-be-the-final-blow-to-a-common-european-asylum-system-ceas-in-europe/
- 888Proposal for a Regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum, COM/2021/890 final. 2021, December 14. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2021:890:FIN
- 889Council of Bars and Law Societies of Europe. (2022, November 25). CCBE recommendations on a framework on legal aid in the field of migration and international protection. https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/MIGRATION/MIG_Position_ CCBE-recommendations-on-a-framework-on-legal-aid-in-the-field-of-migration-and-international-protection.pdf

- 890European Network of National Human Rights Institutions. (July 2022). Strengthening Human Rights Accountability at Borders. ENNHRI Report. https://ennhri.org/wp-content/uploads/2022/07/ENNHRI_Strengthening_Accountability-at-Borders_Report_final.pdf
- 891Border Violence Monitoring Network. (2023). Input to the Asylum Report 2023. https://euaa.europa.eu/sites/default/files/2023-06/Border_Violence_Monitoring_Network.pdf
- 892Coordination and initiatives for refugees and foreigners | Coordination et initiatives pour refugees et étrangers. (2022, October 26). Assistance d'un(e) avocat(e) dès la privation de liberté… une nécessité absolue! [Assistance from a lawyer from detention…an absolute necessity!]. https://www.cire.be/publication/assistance-avocat-privation-liberte-necessite-absolue/
- 893I Have Rights. (2023). Input to the Asylum Report 2023. https://euaa.europa.eu/sites/default/files/2023-02/i_have_rights.pdf

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