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Legislative changes to border procedures in 2023 included proposals to introduce the procedure in Finland and changes to the conditions for applying the procedure in Italy. In Czechia, a different court was assigned for appeals for this procedure, while the procedure itself remained the same. Furthermore, concerns were raised on the application of the border procedure in Greece and Spain.

The Finnish Ministry of the Interior launched a new legislative process to introduce a border procedure. A similar law proposal had already been initiated by the previous government, but it lapsed due to the elections. The new proposal suggests the general introduction of the border procedure, while the previous one planned its use only in the event of large-scale instrumentalised arrivals.357

Law No 50/2023 in Italy allows for the accelerated processing of applications at the border or transit zones for applicants coming from safe third countries or who attempted to evade border checks. These applicants may also be detained at the border (*see Section 3.7*). The authorities must decide on their application within 7 days.358UNHCR agreed with these changes, acknowledging the need to protect the quality and efficiency of the asylum system. However, it recommended that the procedure be used only for applications that appear manifestly unfounded during the initial stages of screening and the accelerated border procedure should not be applied when serious reasons are invoked to believe that in the specific case an applicant from a safe country of origin may be at risk.359Furthermore, the establishment of a first centre for accelerated returns at the border was announced in Italy for applicants arriving from safe countries of origin, in line with the provisions of the new Law No 50/2023.360Detention measures adopted for applicants in the border procedure were scrutinised by the Court of Catania, and the Court of Cassation sent a question for a preliminary ruling to the CJEU (*see Section 3.7*).

Responsibility was transferred from the municipal court to the Regional Court in Prague for appeals against decisions on applications made in the transit area of the international airport to ensure a more balanced distribution of the workload. Despite the different name, the two courts are at the same level in the judicial hierarchy. The procedure itself, including further appeal for cassation, remained the same.361

Greece’s border procedure gave rise to questions by members of the European Parliament, especially on the use of the border procedure at locations outside border points and transit

zones and on the examination of the merits of an application beyond the scope described under the recast APD, Article 31(8).[362]Commissioner Johansson confirmed in her reply that the European Commission was aware of the issues and its services were analysing and monitoring the situation.[363]

The Spanish Commission for Refugees (CEAR) in Spain observed that there were significant delays in accessing the procedure at the Madrid Barajas Airport, noting that some people had to wait more than 20 days to formalise their application. The organisation highlighted that this situation had an impact on receiving reception and detecting vulnerable persons.[364]The Office of the Spanish Ombudsperson also noted gaps in reception due to the delays and offered recommendations to address the situation.[365]UNHCR issued a public statement on the conditions at the airport in February 2024.[366]

In 2023 national courts examined several cases concerning the conditions for resorting to detention in the border procedure (*see Section 3.7*).

- [357]Ministry of the Interior | Sisäministeriö. (2023, July 28). *Sisäministeriö jatkaa rajamenettelyn käyttöönoton valmistelua [Ministry of the Interior to continue preparations to introduce border procedure]*.

- [358]Decreto-Legge convertito con modificazioni dalla L. 5 maggio 2023, n. 50 [Decree-Law converted with amendments by Law No 50 of 5 May 2023], March 11, 2023. https://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.datal 03-10&atto.codiceRedazionale=23G00030&elenco30giorni=true
- [359]United Nations High Commissioner for Refugees. (May 2023). *Legge 5 maggio 2023, n. 50 di conversione, con modificazioni, del decreto-legge 10 marzo 2023, n. 20, recante disposizioni urgenti in materia di flussi di ingresso legale dei lavoratori stranieri e di prevenzione e contrasto all'immigrazione irregolare [Law of 5 May 2023, No 50, with amendments, of the legislative decree of 10 March 2023, n. 20, containing urgent provisions regarding the legal entry flows of foreign workers and the prevention and fight against irregular immigration]*.

- [360]Ziniti, A. (2023, August 16). *Migranti, sarà a Pozzallo il primo centro per le espulsioni accelerate alla frontiera per chi arriva da Paesi sicuri [Migrants, the first center for accelerated returns at the border for those arriving from safe countries will be in Pozzallo].* La Repubblica.

  https:/
- [361]173/2023 Sb. Zákon, kterým se mění zákon č. 325/1999 Sb., o azylu, ve znění pozdějších předpisů, zákon č. 326/199 [Act No. 173/2023 Coll. Act amending Act No. 325/1999 Coll., on asylum, as amended, Act No. 326/1999 Coll., on the residence of foreigners in the territory of the Czech Republic and amending certain laws, as amended, and others related laws], 2023.

- [362]European Parliament, (2023, March 9). *Parliamentary question: Border procedures in Greece*. [E-000698/2023].

- 363European Parliament. (2023, July 6). *Parliamentary question: Answer given by Ms Johansson on behalf of the European Commission*. [E-000698/2023(ASW)]. https://www.europarl.europa.eu/doceo/document/E-9-2023-000698-ASW_EN.html
- 364Comisión Española de Ayuda al Refugiado (CEAR) | Spanish Commission for Refugees. (2024). *Input to the Asylum Report 2024*. https://euaa.europa.eu/sites/default/files/2024-02/comision_espanola_de_ayuda_al_refugiado_cear_spanish_commission_for_refugees.pdf
- 365Ombudsperson | Defensor Del Pueblo. (2023, November 30). V*isita a la Sala de asilo del Aeropuerto Madrid-Barajas Adolfo Suárez (Madrid) [Visit to the Asylum Room at the Madrid-Barajas Adolfo Suárez Airport (Madrid)].*

- 366United Nations High Commissioner for Refugees. (2024, January 31). *UNHCR recalls the urgency to solve the situation of asylum seekers at the Madrid-Barajas airport* [Press release].

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