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EU+ countries implement special procedural guarantees when the level of disability may affect the asylum procedure of the applicant, which are decided on a case-by-case basis to ensure that adaptations are tailored to the individual.

The Committee on the Rights of Persons with Disabilities noted different procedures in place in federal states in Germany. It recommended to implement more uniform procedures, ensure the provision of adequate support to applicants with disabilities, and improve access to comprehensive health services upon arrival.1022

The Swiss Federal Administrative Court examined a case of an applicant with dementia from Alzheimer's disease. The court clarified the need to determine the applicant's ability to act in the proceedings and the right to be appointed a representative when the applicant was not able to be heard or answer the questions during the interview. The applicant was personally heard before the SEM, where he was noted to be confused and disorientated so the hearing was waived. His asylum application was rejected, but in the absence of further clarification on his state of health, the court considered that SEM was incapable of assessing the grounds for asylum, especially since the applicant's ability to judge the facts in a comprehensive way affected the finding of the facts.

In Italy, in the case of an Albanian applicant with two minor children, one of them with a disability certified by a medical committee, the Tribunal of Rome concluded that there was a well-founded risk of serious infringement of fundamental rights due to the time lapsed and being deprived of their right to register an asylum application. The applicant lodged an application for special protection before the entry into force of Legislative Decree No 20/2023 (currently Law No 50/2023) and tried unsuccessfully to formalise the application with the Immigration Office. The tribunal took into consideration the fact that a lack of formalisation deprives the applicant and her children of accessing all rights, including adequate medical services for the disabled child. The tribunal ordered the formalisation of the application for special protection within 6 days of the publication of the order.

The Supreme Administrative Court in Austria overruled a decision of the lower court stating that it failed to fully examine the possibility of a violation of the right to private and family life for a Russian applicant and her disabled husband by not holding an oral hearing. The Federal

Administrative Court had failed to consider that the applicant's husband was dependent on her support because he had lost his right forearm during the Chechen war and suffered from post-traumatic stress disorder (PTSD). While the applicant had only submitted the psychotherapist’s confirmation of treatment for PTSD, it had not been sufficient to fully clarify the level of dependency. Nonetheless, the court held that the lower court should have clarified the facts by holding an oral hearing.

In another case in Austria, the Federal Administrative Court decided that an applicant with Hodgkin's disease would face a real risk of serious, rapid and irreversible deterioration of his health leading to intense suffering and significant shortening of life expectancy if returned to India due to the lack of adequate access to medical care. His application for international protection was based on the grounds of political persecution while he also provided evidence to require regular medical controls for his disease. The BFA has rejected his claim and issued a return decision. The court noted that adequate medical care for his illness could not be guaranteed in India within the framework of state healthcare and the applicant did not have sufficient financial resources to obtain private health insurance. The Federal Administrative Court annulled the decision of the BFA and granted the applicant subsidiary protection.

In Germany, the Lower Saxony-Bremen Regional Social Court ruled that the district authorities must cover the costs for necessary medical treatment for a Georgian under-age asylum applicant under the regular rules based on a fundamental right to ensure a decent subsistence level. The family’s asylum applications were rejected, but the appeals were still pending. The applicant suffered from a chronic condition since birth with medical conditions such as short statue, severe bone growth disorders, a pronounced multi-dimensional misalignment of the axis in the knee joints and permanent, severe pain. According to the doctors’ opinion, the applicant needed a surgical operation in a special clinic which would help him to walk without pain and aids. The competent district refused to cover the costs and alleged that the operation was not necessary in view of the applicant’s obligation to leave the country, the threat of removal and temporary stay in Germany pending the outcome of the appeal. The district authorities also considered that the surgery was not essential to ensure health or cover for special needs of the children.

- 1022United Nations Committee on the Rights of Persons with Disabilities. (2023, October 3). *Concluding observations on the combined second and third periodic reports of Germany* .

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