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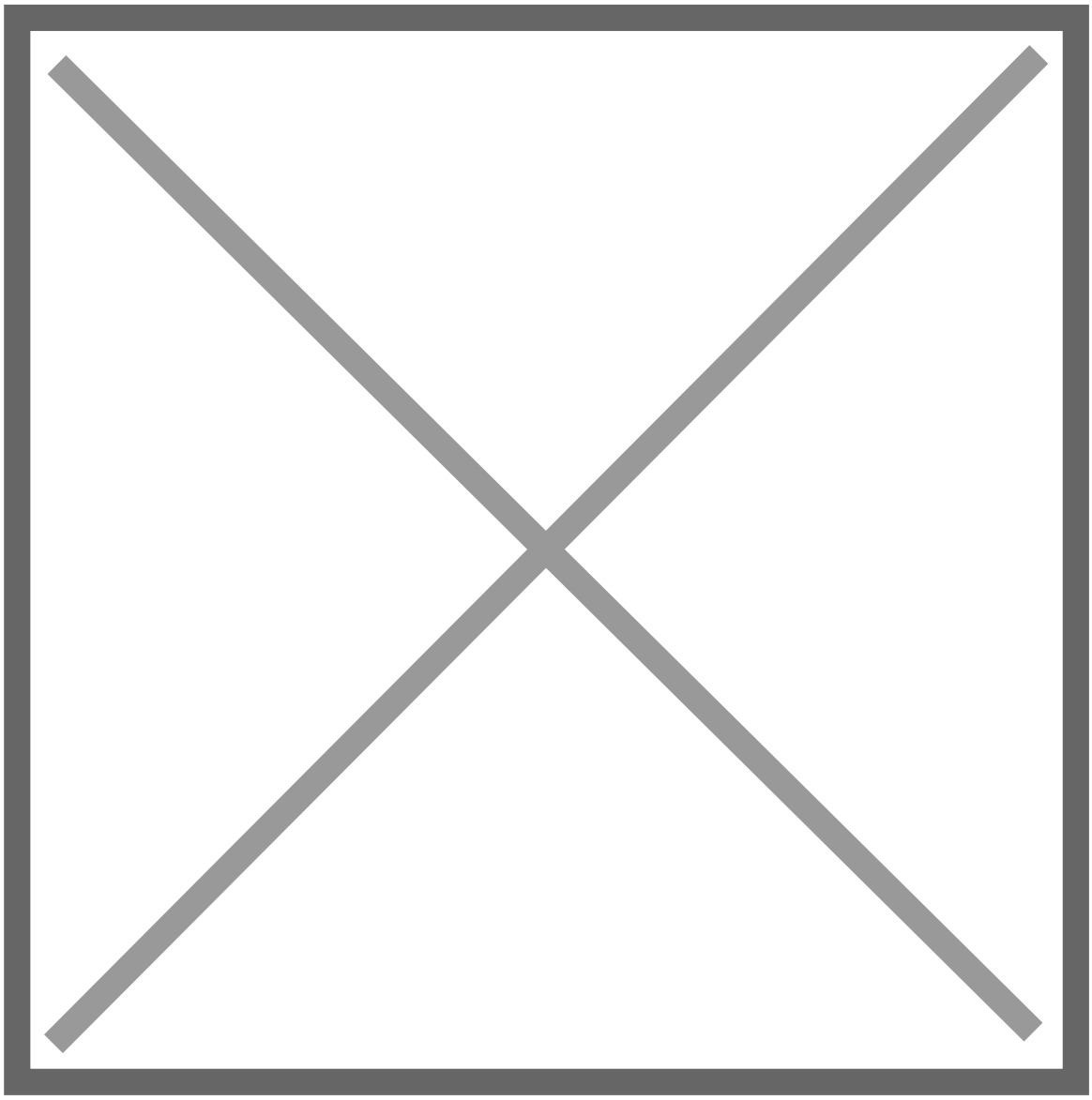
4.5.5 Managing time limits and the backlog on appeals



In 2020, some courts managed to clear the backlog of asylum cases on appeal (for example, Ireland)[501]
or take advantage of a drop in appeals (for example, France),[502] while, in general, procedural time limits on appeal were extended or suspended due to COVID-19 restrictions. In this context, the shortening of procedures was a priority in many EU+ countries.

The Austrian Ombudsperson's Board received complaints about the length of asylum procedures on appeal. The new coalition government in Austria announced its work on a comprehensive strategy on migration, including the shortening of second instance time limits for cases in an accelerated procedure.503

In Bulgaria, the Ombudsperson gave an opinion on the amendments to the Law on Measures and Actions during the state of emergency, noting the importance of the right to a fair trial and stressing that slow justice is in practice a denial of justice.504 The Bulgarian Ombudsperson urged the parliamentary committee to introduce, within a reasonable time, alternative opportunities for access to justice, such as e-justice or other appropriate measures. At the same time, the Bulgarian Law on Asylum and Refugees, Article 84 amended the time limits for an appeal. In particular, Article 84(1) now provides for 7 days to appeal against decision to withdraw protection and 14 days to appeal against a negative decision for refugee status or humanitarian protection, negative decisions for family members, decisions on family reunification under temporary protection and revocation of temporary protection.505 In addition, shorter time limits on an appeal for a pre-removal detention decision were introduced in the draft bill to amend the Law on Foreigners.506

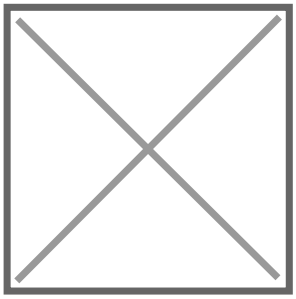
After the amendment of the constitution in September 2020,507 Cyprus revised key legislative instruments and reduced time limits to lodge an appeal at first and second instance courts. Pursuant to the amended Refugee Law and the amended Act on the Establishment of the International Protection Administrative Court, the time limit to appeal against a decision, act or omission of the Head of the Asylum Service or the Refugee Review Authority was reduced from 75 days to 30 days from the date of notification. The time limit to appeal against a decision to reject an application as manifestly unfounded was also reduced from 75 days to 15 days. In addition, the time limit for lodging an appeal against a decision of the International Protection Administrative Court before the Supreme Court was reduced from 42 days to 14 days from the day of issuance of the decision.508

According to a new law in Lithuania on the legal status of aliens, adopted on 10 November 2020, a case must be examined within 3 months if it has been returned by the court to the Migration Department. In addition, the new law foresees that the time limit to lodge an appeal if an application was examined under the accelerated procedure is reduced to 7 days from the moment of notification of the decision.509

In Luxembourg, Bill No 7681 was introduced into Parliament on 16 October 2020 to amend the Asylum Law of
18 December 2015.510 The bill would amend the appeal procedure against a Dublin transfer decision by reducing the time limit to pronounce a decision, from 2 months to 1 month. A suspensive effect is also provided, so that the Dublin transfer decision is not enforced until a final decision is pronounced. In addition, a draft amendment of the Law on International Protection and Temporary Protection would introduce extraordinary appeal possibilities against a final decision on an application, as well as against a decision to withdraw international protection.511

In Switzerland, the Federal Administrative Court published its report on the evaluation of the new asylum appeals procedure after the new Asylum Act entered into force on 1 March 2019. The court concluded that the new time limits complied with the asylum appeals procedure in 70%-75% of

cases, and in 8%-20% of cases the time limits were exceeded by a few days, depending on the type of procedure. In addition, an increasing rate of appeals (from 7% to 15%) were referred back to the SEM for re-assessment for not sufficiently establishing the facts or not sufficiently investigating the applicant's medical condition.512 However, Asylex expressed concerns about the extremely short time limits on appeals provided in Switzerland for the accelerated asylum procedure (in principle the main rule for all asylum applications and cannot be compared to the accelerated procedure under EU terminology), ranging from 5 to 7 days. This may pose problems, for example, if a legal representative resigns after a first instance decision and leaves the applicant with few days to find another lawyer and lodge an appeal. Asylex also noted that, during the COVID-19 restrictions, the
7-day time limit to lodge an appeal was extended to 30 days, which it considered more appropriate, not only during COVID-19 restrictions. The Swiss Refugee Council noted that the increasing number of appeals and successful appeals show that the new system with strict deadlines risks pushing the asylum authorities to their limits. However, overall, the organisation welcomed that with the introduction of legal assistance to all asylum applicants *(see Section 4.10),* applicants had a better chance to appeal and the deadlines for decisions on an appeal are also met by the court in the majority of cases, meaning that applicants have to wait much less for a final decision.513



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[511] Projet de loi portant modification de la loi du 18 décembre 2015 relative à la protection internationale et à la protection temporaire [Draft law concerning the amendment of the Law of 18 December 2016 on international protection and on temporary protection]. http://legilux.public.lu/eli/etat/projet/pl/20170339

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