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Detention may have implications on the asylum procedure in terms of access to procedure, information provision, the personal interview and applicable timeframes. In 2021, EU+ countries made efforts to counterbalance shortcomings and address existing gaps.

The Finnish Immigration Service started conducting personal interviews through videoconferencing more often in detention units.857 Cyprus developed the Guide of Prisoner's First Contact to inform newly-arrived detainees about their rights, obligations and the applicable rules.858

In a case involving the Netherlands, the ECtHR concluded that the ECHR, Article 5(4) had not been violated when, during the first weeks of the COVID-19 pandemic, the applicant was represented by and heard through his lawyer, who had attended the hearing on a detention order by telephone and with whom he had had regular contact. The general interest of public health and the application's fundamental rights had been respected, even if the applicant could not attend in person or through videoconference.

Following the Supreme Court of Cassation's ruling on administrative shortcomings in Italy, if the territorial commission failed to summon the applicant within the timeframe for an accelerated procedure, detention measures should be revoked since the detention period cannot exceed the time needed to examine the application. Nonetheless, practical barriers in accessing the asylum procedure were noted in Italy for detainees in a pre-removal detention centre (CPR).859

Conversely, delays in the asylum procedure may affect and prolong detention. The ECtHR recently underlined that the strict time limits to examine an asylum application constitute an important safeguard against arbitrariness. If national authorities do not react to an applicant's complaints about serious delays in the proceedings, this may result in a violation of the right to liberty and security, as was seen in a case against Czechia. The court also found a violation of the ECHR, Articles 5(1) and 5(4) in Hungary for the extended stay of applicants in the transit

zone, considerable delays in examining the asylum claims, conditions of the stay and the lack of a judicial review.

The impact of subsequent applications on detention was addressed by the Cypriot Administrative Court (see for example here and here), concluding that a person acquires the status of an asylum seeker from the moment of registering a subsequent application until the final decision of the Asylum Service, thus contested detention and expulsion orders should be annulled.

Likewise, the Supreme Court in Estonia ruled that if the legal status of a detainee changes, a new application for detention is needed (see here and here). The status of detainee as an applicant of international protection is also critical for free legal aid, as underlined by the Supreme Court in Cyprus.

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