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3.5.2. Institutional changes in appeal bodies

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Several EU+ countries introduced changes to the bodies competent to examine asylum appeals, adapting the competent bodies to the number of appeals pending at second instance or changing the criteria for appointment as a member in the appeal body to ensure that sufficient candidates apply for positions open at second instance.

In the context of a project financed by the EU and the Council of Europe to modernise the courts, Cyprus announced in January 2023 the establishment of an independent court service for administrative support to judges, leaving more time for judges to focus on judicial duties.461

In Latvia, a new local court was afforded the competence to receive asylum appeals.

In Lithuania, the practice of distributing appeal files to several regional courts, which had been applied in 2021 and 2022 due to an increase in the workload, was discontinued, and the Vilnius District Administrative Court was again assigned to asylum cases.

Changes were also introduced in the court system of Slovakia, in effect since 1 June 2023. Three new administrative courts were created in Bratislava, Banská Bystrica and Košice. Two of the administrative courts have jurisdiction over administrative actions in matters of asylum, detention and administrative expulsion, namely the Administrative Court in Bratislava for the territorial districts of the Bratislava Region, the Nitra Region, the Trenčín Region and the Trnava Region; and the Administrative Court in Košice for the territorial districts of the Banská Bystrica Region, the Košice Region, the Prešov Region and the Žilina Region.462The Supreme Administrative Court of the Slovak Republic decides on cassation complaints filed against the decisions of these administrative courts.463

To deal with the increased volume of appeals and requests before IPAC, in May 2023, Cyprus amended the Law on the Establishment and Operation of IPAC. This allowed the Supreme Judicial Council to appoint people with the necessary qualifications to judge appeals pending before the court, alongside IPAC judges, temporarily for the period provided in the amendment. 464

Legislative proposals were also made in Norway in March 2023 to appoint members of the grand jury of the UNE in the same way as other committee members, lowering the requirements due

to the lack of sufficient candidates and providing that the appointment would not be done by the ministry.[465]In April 2023, NOAS expressed its disagreement with this proposal, noting that the change would lead to a weakening of the grand jury of the UNE and possibly reduce the quality of the decisions of the UNE.[466]

The appeal authority was changed in Poland from the Head of the Office for Foreigners to the Commander-in-Chief of the Border Guard for decisions of the Border Guard authorities in cases of obligation of the foreigner to return, extension of the time limit for voluntary departure, revocation of the re-entry ban, the granting of a residence permit for humanitarian reasons and a permit for tolerated stay, withdrawal of humanitarian residence permits and permits for tolerated stay. The second instance authority in matters of international protection did not change, and the Refugee Board remained the second instance administrative authority that examines appeals against negative decisions at first instance issued by the Head of the Office for Foreigners in matters of granting international protection. The Polish Helsinki Foundation for Human Rights commented that the change related to appeals in return proceedings raised the issue of an effective and fair right to appeal, as now decisions in first and second instances are issued by branches of the same institution which follows a strong hierarchical model.[467]The Border Guard underlined that the Commander-in-Chief of the Border Guard has extensive experience in adjudicating administrative cases as a higher-level authority in a number of cases conducted by commanders of Border Guard posts and branches, and as an appellate body, it has experience, developed jurisprudence and performs actions with the participation of qualified officers and employees who are specialised in applying the provisions of the Law on Foreigners.[468]

In Czechia, the Organisation for Aid to Refugees (OPU) reported that the judicial review provided by courts remained affected by the lack of specialisation and training in asylum, insufficient time, lack of staff allocated to asylum cases and limited knowledge of English to access European and international human rights law, COI and relevant comparative jurisprudence. The organisation further observed that the austerity measures announced by the government were expected to impact the financial situation of the courts, which have already become stricter in reviewing the financial means of applicants who request free legal aid. Despite the challenges, the NGO noted a positive example of comprehensive reasoning which took into account international law and COI in a judgment pronounced by the Regional Court in Ostrava, concerning a trafficked woman from Nigeria.[469]

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- [462]Ministry of Justice of the Slovak Republic | Ministerstva spravodlivosti Slovenskej republiky. (2024, April 2). *Zoznam súdov [List of courts]*.

- [463]151/2022 Z. z. Časová verzia predpisu účinná od 01.06.2023 [151/2022 Coll. Temporary version of the regulation effective from 01.06.2023]. (27 April

2022). https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2022/151/

- 464Νομος που τροποποιεί τους περί της Ίδρυσης και Λειτουργίας Διοικητικού Δικαστηρίου Διεθνούς Προστασίας Νόμους του 2018 έως (Αρ.3) του 2020, (Τροποποιητικός) Νόμος του 2023, Αρ. 30(I)/2023 [Amendment N. 30(I)/2023 of the Laws on establishment and operation of Administrative Court for International Protection]. (19 May 2023). http://www.cylaw.org/nomoi/arith/2023_1_030.pdf
- 465Ministry of Justice and Public Security | Justis- og beredskapsdepartementet. (2023, March 24). *Prop. 67 L (2022–2023) Endringer i utlendingsloven (fjernmøter i Utlendingsnemnda mv.) [Prop. 67 L (2022–2023) Changes to the Immigration Act (remote meetings in the Immigration Board, etc.)]* . https://www.regjeringen.no/no/dokumenter/prop.-67-l-20222023/id2967585/
- 466Norwegian Organisation for Asylum Seekers | Norsk organisasjon for asylsøkere. (2023, April 12). Høring om endringer i utlendingsloven (fjernmøter i Utlendingsnemnda mv.) Prop. 67 L (2022-2023) [Consultation on changes to the Immigration Act (remote meetings in the Immigration Appeals Board, etc.) Prop. 67 L (2022-2023)].
- 467Helsinki Foundation for Human Rights | Helsińska Fundacja Praw Człowieka. (2024). Input to the Asylum Report 2024.

- 468Office for Foreigners | Urząd do Spraw Cudzoziemców. (2023, April 6). *Changes in migration law*.

- 469Organisation for Aid to Refugees | Organizace pro pomoc uprchlíkům. (2024). Input to the Asylum Report 2024.

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