

4.5.3 Suspension of a return during an appeal



In 2020, Bulgaria, Cyprus and Estonia implemented a suspension of a removal decision when a first instance rejection decision is appealed in the regular procedure. Other countries introduced similar changes related to special procedures (see [Section 4.3](#)). In Bulgaria, the Law on Asylum and Refugees, Article 84 now provides that an appeal has an automatic suspensive effect and the court decides *ex officio* or at the request of the applicant on the right to remain on the territory when the appeal concerns a rejected subsequent application.^{[495](#)}

In Cyprus, the Refugee Law stipulates that a return decision or deportation order is issued in a single administrative act, simultaneously with a rejection decision of an asylum application. An amendment to the law clarified that an appeal against this single administrative act has a suspensive effect until a final court decision is issued.

Similarly, in Estonia, the amendment of the Act on Granting International Protection to Aliens in June 2020 states that an appeal against a rejection decision has a suspensive effect, so that the execution of a return decision, which is now included in the rejection decision, is suspended and the applicant is allowed to stay in Estonia until a final court decision is pronounced.

In Poland, during the state of epidemic, the Refugee Board issued a resolution in the form of a recommendation based on which the execution of the decision on refusal to grant international protection should be suspended *ex officio* if a complaint is lodged with the administrative court.^{[496](#)}

Contrary to the approach of these countries, in Greece Law No 4636/2019, Article 104, which entered into force on 1 January 2020, eliminated the automatic suspensive effect of an appeal against a first instance decision for several groups of asylum applicants. Applicants must submit a request before the Independent Appeals Committees requesting to stay in the country until an appeal decision is pronounced. METAdrasi and the Greek Council for Refugees raised concerns regarding the elimination of the automatic suspensive effect, noting that already applicants encountered several challenges when appealing a first instance decision, for example a lack of access to adequate legal assistance and suspended services at RAO Lesvos.^{[497](#)}

A change which concerns the collegial formation that decides on a suspensive effect took place in

