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# 3.9.2. Access to legal aid during appeals

### 3.9.2. Access to legal aid during appeals

In appeals, the provision of legal aid was extended in certain jurisdictions and legislative amendments were adopted to include specific rights for hearings. In addition, national courts clarified deadlines and procedural requirements to access legal aid in appeals.

In Norway, the government proposed changes to the Immigration Act to include a permanent legal provision allowing the personal interview and hearings to be conducted remotely before the Immigration Appeals Boad (UNE) (*see Section 3.5*).729While the standard procedure will continue to require the applicant, the lawyer, the interpreter and the decision-maker to be physically present, the Chair can decide that a board meeting is to be held as a remote meeting unless there are particular reasons for applying the standard procedure. In addition, the Ministry of Justice and Public Security proposed to amend the Immigration Act to incorporate an extended right of the lawyer and the applicant to be personally present and provide oral input during hearings before the Grand Board. The Ministry will also increase the number of hours for free legal advice. The proposal will include rules for civil society organisations (such as NOAS and others) to have access to hearings before the Grand Board. NOAS highlighted that the presence of the applicant and the lawyer to present oral submissions before the UNE and the Grand Board will strengthen their rights.730

In Greece, the government adopted a decision in January 2023 which defines practical aspects related to Law No 4939/2022 (the Asylum Code731),732specifically access to free legal aid in the appeals procedure, functioning of the Registry of Lawyers, lawyers' tasks, obligations and payment.733

The Ministry of the Interior in Cyprus welcomed discussions in the House of the Representative on professional ethics' violations by some lawyers engaged in asylum cases, through abusive conduct not sanctioned by the Disciplinary Council of the Bar Association. The Ministry of the Interior recommended to enhance cooperation among relevant stakeholders to comply with current regulations and adopt good practices for procedures related to asylum applications.734

According to changes to Law No 176/2023 in Italy, people whose application was denied at the administrative stage under the accelerated procedure lose the entitlement to legal aid in some situations if their interim request for the suspension of the decision is denied.

In a case concerning the naturalisation of an beneficiary of international protection, the Austrian Constitutional Court allowed a legislative review of Section 8a of the Federal Act on Proceedings

of Administrative Courts (VwGVG)[735]which stipulates access to legal aid in an appeal concerning fundamental rights, pursuant to Article 6 of the ECHR or Article 47 of the EU Charter.

The Supreme Administrative Court of Lithuania allowed an appeal submitted by a vulnerable applicant who missed the 3-month deadline to contest a negative decision. The court found that the applicant was not notified of the negative decision, did not understand the decision due to a language barrier and was not provided state legal aid. The Supreme Administrative Court ruled that such circumstances showed the applicant's dependency on support from the Migration Department and assistance from a lawyer, who was able to submit an appeal once assigned to the case through the state-guaranteed legal aid system. The court assessed these circumstances as grounds for missing the appeal deadline beyond the applicant's will.

- [729]Government of Norway | Regjeringen.no. (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 of the Immigration Appeals Board, etc.)]* .

- [730]Norwegian 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)*.

- [731]Κύρωση Κώδικα Νομοθεσίας για την υποδοχή, τη διεθνή προστασία πολιτών τρίτων χωρών και ανιθαγενών και την προσωρινή προστασία σε περίπτωση μαζικής εισροής εκτοπισθέντων αλλοδαπών [Law No 4939/ 10 January 2022 on reception, the international protection of citizens of third countries and stateless persons and temporary protection in the event of a mass influx of displaced foreigners]. (12 June 2022). https://migration.gov.gr/wp-content/uploads/2022/07/%CE%A6%CE%95%CE%9A-%CE%91-111-2022.pdf
- [732]European Union Agency for Asylum. (2023). *Asylum Report 2023, Section 10.4*.

- [733]European Migration Network. (2023). *EMN Quarterly, Edition No 42*.

- [734]Ministry of Interior of Cyprus | Υπουργείο Εσωτερικών. (2023, November 10). *Συνεργασία όλων των εμπλεκομένων φορέων για την αντιμετώπιση φαινομένων παρακώλυσης των διαδικασιών εξέτασης αιτήσεων ασύλου [Cooperation of all actors involved in dealing with obstruction of procedures for examining asylum applications]* [Press release].

  https:/
- [735]Bundesgesetz über das Verfahren der Verwaltungsgerichte (Verwaltungsgerichtsverfahrensgesetz – VwGVG) [Federal Act on Proceedings of Administrative Courts (Proceedings of Administrative Courts Act – VwGVG)] (2023).

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