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4.2.2. Continuing to ensure applicants' rights and obligations at second or higher instances

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Access to the appeals procedure

Changes to legislation and practices aimed to strengthen procedural safeguards for children in appeal procedures. For example, a legislative amendment in Norway lowered the threshold for conducting hearings by the Immigration Appeals Board (UNE) in deportation cases involving children.205 Belgium introduced summons letters that explain the course of a hearing in a child-friendly manner, as recommended by the guidelines of the Council of Europe. A pilot project at the Belgian CALL tailored a courtroom to encourage interaction between a minor and the judge. 206

To improve the quality of judicial processes, several courts provided continuous professional development for judges, often with the support of the EUAA.207 In Ireland, the High Court clarified the duties of the first level of appeal, IPAT. It ruled in January 2024 that IPAT had at a minimum the duty to analyse the COI presented by the applicant and if the tribunal's position was to reject the COI or use other COI, the tribunal needs to provide an explanation for its reasoning.208 The ECtHR ruled in a case against Poland that an appeal against a refusal of entry and a further appeal to the domestic administrative courts were not effective remedies within the meaning of the Convention because they did not have an automatic suspensive effect.209

Civil society organisations reported on some gaps in the appeals procedure that may undermine applicants' rights. For example, Asylex and the Swiss Refugee Council noted that the absence of an oral hearing before the second instance body in Switzerland continued to be a significant hindrance, as the appeal is exclusively conducted in writing, and only in rare cases a hearing is organised to clarify the facts.210 In addition, Asylex noted a systematic reduction of access to legal assistance before the Federal Administrative Court.211 The Refugee Council identified different obstacles to an effective appeal procedure, including the fact that the court may request, if the appeal is prima facie without merit, an advance payment of about CHF 750 for

presumed costs of the appeal proceedings, under penalty of the inadmissibility of the appeal. Unaccompanied minors are exempt from the payment.212

In recent years, issues have arisen over applicants' right to know and access classified information.213 It was welcomed that in Malta a legal notice introduced the possibility for the International Protection Appeals Tribunal to access information in the applicant's file relating to national security.214 The Dutch district court in Roermond referred to the CJEU for a preliminary ruling to clarify what information is included in the concept of 'information in the applicant's file upon the basis of which a decision is or will be made' within the meaning of the recast APD, Article 23(1) and whether this also includes access to information on the manner in which that information was gathered and obtained.215

The extent of a judicial review in the context of the recast APD, Article 46(1) and (3) read in the light of the EU Charter of Fundamental Rights, Article 47 and the meaning of the full and *ex nunc* examination of an application for international protection continued to give rise to referrals for preliminary rulings. The CJEU delivered a judgment on this matter in October 2024216 and April 2025.217 The Dutch district court in Zwolle referred to the CJEU for a preliminary ruling on whether the court can make its own assessment of the credibility of an asylum claim, replacing the assessment made by the determining authority.218

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  Government | Regjeringen. (2024, May 24). Flere utvisningssaker som berører barn skal behandles i nemndmøte, [Several deportation cases affecting children must be dealt with in a tribunal meeting]. Immigration Appeals Board | Utlendingsnemnda. (2024, June 5). Forskriftsendring gir lågare terskel for nemndmøte, [Amendment to the regulations provides a lower threshold for a tribunal meeting].

- 206

  https://www.rvv-cce.be/nl/actua/aangepaste-oproepingsbrieven-en-een-zittingszaal-op-maat-van-minderjarigen

- 207

  https://euaa.europa.eu/asylum-knowledge/courts-and-tribunals

- 208

  Ireland, High Court, *M.B.* v *International Protection Appeals Tribunal & Anor*, [2024] IEHC 12, 12 January 2024. Link redirects to the English summary in the EUAA Case Law Database.

- 209

  Council of Europe, European Court of Human Rights [ECtHR], *Sherov and Others* v *Poland*, No 54029/17, 54117/17, 54128/17 and others, ECLI:CE:ECHR:2024:0404JUD005402917, 4 April 2024. Link redirects to the English summary in the EUAA Case Law Database.

- 210

  Asylex. (2024). Input to the Asylum Report 2025. Swiss Refugee Council | Schweizerische Flüchtlingshilfe | Organisation suisse d'aide aux réfugiés. (2024). Input to the Asylum Report 2025

- 211

  Asylex. (2024). Input to the Asylum Report 2025

- 212

  Swiss Refugee Council | Schweizerische Flüchtlingshilfe | Organisation suisse d'aide aux réfugiés. (2024). Input to the Asylum Report 2025.

- 213

  Hungarian Helsinki Committee. The Right to Know in the European Union: Comparative Study on Access to Classified Data in National Security Related Immigration Cases. 16 April 2024. Lithuanian Red Cross Society | Lietuvos Raudonojo Kryziaus. (2024). Input to the Asylum Report 2025.

- 214

  Legislation Malta | Leġislazzjoni Malta, 104 tal-2024 - Regolamenti tal-2024 li jemendaw ir-Regolamenti dwar l-Istandards ta' Proċedura għall-Għoti u l-Irtirar tal-Protezzjoni Internazzjonali Gazzetta tal-Gvern ta' Malta Nru. 21,233– 26.04.2024 [104 of 2024 - Regulations of 2024 amending the Regulations on Procedural Standards for Granting and Withdrawing International Protection Government Gazette of Malta No 21,233 – 26.04.2024] , 26 April 2024.

- 215

  Netherlands, Court of The Hague [Rechtbank Den Haag], *W* v *State Secretary for Justice and Security (Staatssecretaris van Justitie en Veiligheid)*, NL22.10458, 20 June 2024. Link redirects to the English summary in the EUAA Case Law Database.

- 216

  European Union, Court of Justice of the European Union [CJEU], *CV* v *Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky*, C-406/22, ECLI:EU:C:2024:841, 4 October 2024. Link redirects to the English summary in the EUAA Case Law Database

- 217

European Union, Court of Justice of the European Union [CJEU], *B.F.* v *Kypriaki Dimokratia [Barouk]*, C-283/24, ECLI:EU:C:2025:236, 3 April 2025. Link redirects to the English summary in the EUAA Case Law Database.

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  Rechtbank Den Haag. 11-03-2025. NL24.1518. ECLI:NL:RBDHA:2025:3726. https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:RBDHA:2025:3726

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