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Judgment of the Court in Case C-610/23 | [Al Nasiria] ¹

International protection: Greek legislation obliging an applicant for international protection to appear in person at the hearing to examine his or her appeal and providing for a presumption that an appeal has been improperly brought in the event of non-compliance with that obligation is contrary to EU law

An Iraqi national lodged an application for international protection in Greece, alleging that his life was in danger in his country of origin. He stated that he had been injured by a firearm by a member of the family of a young woman with whom he had been in a romantic relationship, and had been the subject of a tribal decision ordering him to be put to death. His application for international protection was rejected, however, due to insufficient evidence being provided. His appeal against that decision was dismissed by an Independent Appeals Committee as manifestly unfounded. He failed to appear in person before that committee, whilst national legislation establishes a presumption that, where the applicant fails to appear before the body hearing his or her appeal, the appeal has been improperly brought.

The Administrative Court of First Instance of Thessaloniki, before which the action against the decision of an Independent Appeals Committee was brought, referred questions to the Court of Justice for a preliminary ruling. That court seeks to ascertain whether the procedural obligation to appear in person and, in particular, the legal consequences of non-compliance with that obligation, are compatible with the EU directive on international protection. ²

In its judgment today, the Court holds that, read in the light of the right to an effective remedy as enshrined in the Charter of Fundamental Rights of the European Union, the directive precludes national legislation which, in the event of failure by an applicant for international protection to comply with a procedural obligation to appear in person before the court or tribunal having jurisdiction, the sole objective of which is to verify the applicant's presence on the national territory and not to be heard, establishes a presumption that the appeal has been improperly brought.

The Court considers that, even though the legislation at issue may assist in safeguarding the efficiency of the judicial system, inasmuch as it assists the courts or tribunals hearing those appeals in concentrating on those coming from applicants who have a genuine interest in the outcome of their appeal, **it does not observe the principle of proportionality.**

According to the Court, less restrictive measures could be adopted, such as allowing applicants to be represented by a lawyer or other person authorised for that purpose and, in order to prove their presence in Greek territory, to appear at a police station or before another public or judicial authority close to where they are staying.

Moreover, the obligation for the applicant to appear in person imposes **an unreasonable and excessive burden on applicants for international protection who are not staying in the region of Athens**, where the appeals are

heard. They are required to travel to Athens, solely in order to have their presence recorded, without however necessarily being heard. **The disproportionate nature of that legislation is evident, inter alia, from the fact that it establishes an irrefutable presumption that an appeal has been brought improperly**, with the result that it must be dismissed as manifestly unfounded, without any examination being conducted as to its merits.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, an abstract](#) of the judgment are published on the CURIA website on the day of delivery.

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¹ The name of the present case is a fictitious name and does not correspond to the real name of any of the parties to the proceedings.

² Article 46 of [Directive 2013/32/EU](#) of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection.