Legal professionals and judiciary raise concerns over new provisions on returns and legal aid

Recent amendments to Decree Law No 23/2026 on security and migration have prompted criticism from representatives of the legal profession and the judiciary, particularly regarding provisions on assisted voluntary returns and access to legal aid.

The measures were introduced during the parliamentary process and include provisions related to compensation for legal assistance in assisted voluntary return procedures, as well as changes to the rules governing access to state-funded legal aid in cases involving expulsion orders.

One provision introduces a fee for legal professionals assisting individuals in applying for assisted voluntary return programmes, with payment linked to the completion of the return process. Another removes automatic access to legal aid—previously granted regardless of income thresholds—for individuals challenging expulsion decisions, potentially affecting access to legal representation.

Professional bodies, including representatives of lawyers and magistrates, have expressed concerns about the potential implications of these changes for the right to defence and the independence of legal professionals. Some organisations have questioned whether linking compensation to the outcome of return procedures could raise issues related to professional ethics and the role of legal counsel.

Judicial representatives have also highlighted concerns about restrictions on access to legal aid, noting the importance of ensuring that individuals are able to effectively challenge administrative decisions, particularly in the context of expulsion proceedings.

In addition, questions have been raised regarding the involvement of professional bodies in the implementation of return-related provisions and the potential need for further clarification of roles and responsibilities.

The provisions remain part of a broader legislative framework addressing migration and public security, and discussions continue regarding their potential legal and practical implications.

Source(s)

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- MeltingPot (20 April, 2026), DL “sicurezza”, avvocati e magistrati contro gli incentivi sui rimpatri e l’abrogazione del gratuito patrocinio ["Security" Law Decree, lawyers and magistrates against incentives on repatriations and the repeal of flee legal aid], https://www.meltingpot.org/2026/04/dl-sicurezza-avvocati-e-magistrati-contro-gli-incentivi-sui-rimpatri-e-labrogazione-del-gratuito-patrocinio/

Related development(s)
Council of Ministers approves law decree amending rules for assisted voluntary returns
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