



C/2024/625

15.1.2024

**Request for a preliminary ruling from the Dioikitiko Protodikeio Thessalonikis (Greece) lodged on
3 October 2023 — FO v Ypourgos Metanastefsis kai Asylou**

(Case C-610/23, Al Nasiria) ⁽¹⁾

(C/2024/625)

Language of the case: Greek

Referring court

Dioikitiko Protodikeio Thessalonikis

Parties to the main proceedings

Applicant: FO

Defendant: Ypourgos Metanastefsis kai Asylou

Questions referred

1. Given the importance of the remedy referred to in Article 46 of Directive 2013/32, ⁽²⁾ may the legislature infer a presumption that the appeal has been improperly brought and, as a consequence, dismiss the appeal, without a full and ex nunc examination of the case, as manifestly unfounded (which also results in the period for voluntary departure referred to in Article 22(4) of Law 3907/2011 and Article 7 of Directive 2008/115 ⁽³⁾ not being granted) on the ground that the applicant [for international protection] did not appear in person before the committee examining the case?
2. (a) If it were to be held that this matter is covered by the principle of the procedural autonomy of the Member States, should the comparable national procedural rules, in the context of the examination of the principle of equivalence, be considered to be those governing proceedings before administrative committees hearing appeals under national law or the procedural rules governing the bringing of substantive actions (or applications for annulment) before administrative courts?

(b) Is it consistent with the principle of effectiveness of EU law and, in particular, the effective exercise of the right to an effective remedy to lay down an obligation to appear in person (or to send the attestation referred to in Article 78(3) of Law 4636/2019 in the cases provided for)? In that context, furthermore, is it relevant whether the presumption that the right of appeal has been improperly brought, provided for in Article 97(2) of Law 4636/2019, corresponds to the lessons of general experience and, in the context of the examination (at first instance) of applications for international protection, that the same conduct would lead to a presumption of implicit withdrawal rather than a rejection of the application as manifestly unfounded?

⁽¹⁾ The name given to the present case is fictitious. It does not correspond to the real name of any party to the proceedings.

⁽²⁾ 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 (OJ 2013 L 18, p. 60).

⁽³⁾ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98).