Situational Analysis

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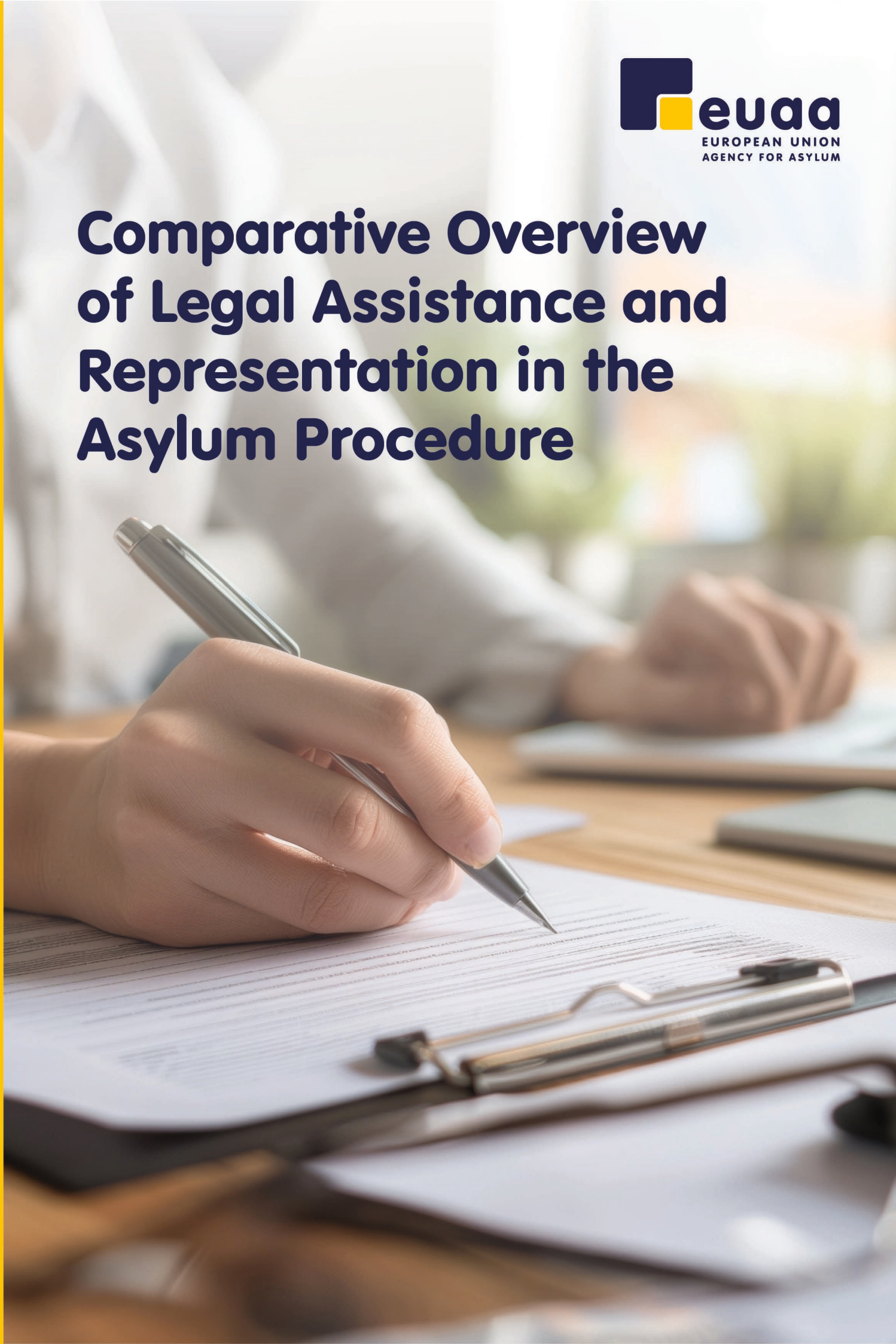
AGENCY FOR ASYLUM

Comparative Overview of Legal Assistance and Representation in the Asylum Procedure



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Methodology

Information presented in this report on the organisation and provision of legal and procedural information, legal counselling, legal assistance and representation in the asylum procedure was collected through desk research. The information was collected based on the methodology used for other EUAA products and platforms.

The report covers aspects related to legislation, policies and practices, including jurisprudence in EU+ countries[1] on organisation, access and provision of legal and procedural information/legal counselling, legal assistance and representation at first instance and second instance determination. The report does not cover information related to legal assistance concerning detention, other asylum-related procedures or returns.

The reporting on national legislation, policies and practices serve as examples which are not exhaustive and do not imply endorsement on the part of the EUAA. Due to the continuously and rapidly-changing situation, especially with the implementation of the Pact on Migration and Asylum, the information described may change or be updated after the time of publication. Please consult the original sources for the latest developments and information.

[1] EU Member States plus Iceland, Norway and Switzerland.

Introduction

Legal assistance is fundamental to inform applicants for international protection of their rights and obligations during the asylum procedure. A legal representative can ensure that the applicant fully comprehends the process and fully complies with the relevant obligations.

In the context of safeguards in the asylum procedure, the minimum requirements for the provision of legal and procedural information, legal assistance and representation are regulated in the recast Asylum Procedures Directive (APD). There is a wide range in= practices across EU+ countries in implementing the directive, but greater convergence is expected under the Asylum Procedures Regulation (APR) under the EU Pact on Migration and Asylum, which will enter into application in June 2026. The APR brings forth increased safeguards and new and strengthened rights for applicants to counterbalance the stricter rules and obligations during the asylum procedure and clear consequences for failing to comply.

This report provides a comparative mapping of the current state of play in access to and provision of legal assistance and representation in the international protection procedure across EU+ countries during the first instance determination and appeals. In addition, it summarises the most significant changes brought by the APR, with the caveat that national adaptations are currently ongoing.

Main highlights

Novelties and adaptations to implement the Pact on Migration and Asylum *(see Annex I)*

- ✓ The Pact introduces the right to free legal counselling in the administrative procedure and for the determination of the responsible Member State.
- ✓ The Pact reinforces rights and adds more safeguards for special procedures, the personal interview and unaccompanied minors.
- ✓ Countries are still defining their legislation and policies, with some proposing limitations and stricter quality requirements (Sweden) or reshaping the current system (Germany, Ireland and Netherlands) to comply with the new rules.

Legal assistance in the administrative procedure *(see Annex III)*

- ✓ 22 out of 30 countries provide state-funded legal assistance in the administrative procedure, either through services of legal professionals under national schemes or public bodies, or services subcontracted to civil society organisations
- ✓ Civil society organisations play an important role in providing legal information, legal counselling or assistance in all EU+ countries.
- ✓ Approximately one-third of countries apply a financial eligibility test for state-funded legal aid, while other countries presume that applicants do not have sufficient resources.
- ✓ Legal assistance for special procedures is enhanced with additional safeguards in some countries (Austria, Germany, Netherlands and Switzerland).

Legal assistance at second instance determination *(see Annex IV)*

- ✓ Legal aid in an appeal is usually organised through the court or delegated to bar associations, legal aid offices or specialised public bodies.
- ✓ Denmark is the only country which provides an automatic appeal and continuity of legal assistance and representation for the appeal stage.
- ✓ Civil society organisations retain a role in providing legal information, counselling and guidance but are rarely allowed to provide legal representation.
- ✓ A verification of financial resources of the applicant is the norm to access legal aid for first instance appeals, but a prospect of success test is less frequently used.
- ✓ Legal aid for an onward appeal usually continues to be state-funded, together with a mandatory requirement of legal representation in some countries.

1. Legislative overview and recent developments

The right to legal information, legal assistance and representation is necessary for the right to effective access to justice and an effective remedy, as provided under the EU Charter of Fundamental Rights and the Common European Asylum System (CEAS).

1.1. Main changes foreseen under the instruments of the Pact[2]

The new legal framework of the Pact on Migration and Asylum enshrines more rights and procedural safeguards to ensure that applicants are better informed and guided to navigate the asylum procedure, and able to understand and comply with all obligations, which will lead to faster and more efficient procedures. UNHCR recently highlighted in its recommendations to the EU Presidencies that adequate safeguards contribute to having a human and effective EU asylum system. UNHCR advocates that early and continuous access to legal support may result in faster and fairer procedures, reduce appeals, and optimise processes and resources.

The wording and content of the APR emphasises a positive obligation of the competent authority to provide applicants, at an early stage of the procedure, with the opportunity to communicate with UNHCR or other organisations mandated to provide legal advice or counselling, as well as information as soon as possible, at an early stage of the procedure, on the possibility to apply for legal counselling or legal assistance and representation. As such, the current right to legal and procedural information is replaced by the concept of free legal counselling to empower applicants with specific guidance, explanations and information on rules and procedures covering regular and special procedures at the administrative phase.

The newly introduced concept of legal counselling raises the standard by broadening the scope of legal support. However, this new right is without prejudice to the possibility for Member States to continue offering free legal assistance and representation during the administrative procedure based on their national systems.

The APR also reinforces certain safeguards related to special procedures and appeals, unaccompanied minors and the personal interview. For example, in line with the right of defence and the principle of fairness, under the APR applicants are entitled to free legal assistance and representation in appeals against a negative decision on international protection based on the application being inadmissible, manifestly unfounded, withdrawn implicitly or having protection withdrawn or a pending appeal when determining the right to remain.

[2] For a detailed comparative overview of the differences in the provisions of the recast APD and the APR, see Annex I.

In an era of digitalisation, the APR introduces, as a derogation, the possibility to hold the personal interview by videoconference, provided that the necessary arrangements are in place for legal assistance. The APR strengthens the involvement of a legal adviser during the interview by explicitly stipulating the right to have sufficient preparatory time, especially if the admissibility and substantive interview overlap, and by allowing access to the recording 'as soon as possible'.

The APR ensures that the legal representative of an unaccompanied minor has an extensive role and cooperates with the legal adviser to ensure special guarantees. The representative is also involved in activities related to age assessments, the registration and lodging of an application, and during the personal interview.

The AMMR echoes the APR by introducing under Article 21 the right to free legal counselling at all stages of the procedure to determine the responsible Member State and provides also for the right to legal assistance when the interview is conducted remotely. The AMMR retains some provisions of the current Dublin III Regulation, namely access of the legal adviser to the summary of the interview and legal assistance and representation in an appeal of a transfer decision.

Although the Screening Regulation does not specifically mention the right to legal counselling or assistance, it provides for effective access to premises where screening takes place (border, transit zone or other facilities) and enhanced information provision by "organisations and persons providing advice and counselling", subject to objective and necessary limitations justified "for the security, public order or administrative management".

1.2. National adaptations towards implementation of the Pact

The APR and the AMMR set the common minimum standards for rights and guarantees which are afforded to applicants, while allowing flexibility for Member States to adapt and organise their national systems accordingly. To support Member States in designing their national system for free legal counselling, the EUAA has developed a Practical Guide on Free Legal Counselling: Organisation of the provision of free legal counselling. It is based on the requirements of the APR and the Asylum Migration Management Regulation (AMMR). The practical guide covers the general principles and objectives of free legal counselling, its content, the timing for its provision, guidance on who may provide free legal counselling, some modalities for its provision and aspects to consider for its funding. The annex to the guide provides information on the differences between legal counselling, legal representation, legal assistance and information provision.

In the State of play on the Implementation of the Pact on Migration and Asylum, the European Commission reiterated that, to achieve one of the Pact's objectives of adding new safeguards for applicants for international protection and vulnerable persons, Member States must allocate sufficient resources and adopt adequate measures to increase capacity and establish quality mechanisms when legal support services are outsourced. According to the European Commission, some Member States already include a form of legal counselling in their current organisation of legal support during the administrative procedure *(see Annex III and*

Section 2.4), while others foresee adjustments in their plans for the implementation of the Pact.

Among the countries which have published information on their National Implementation Plans, Ireland listed legal counselling as a safeguard to be ensured at almost all stages of the asylum procedure, plans to expand the competence of the Legal Aid Boar and scale up services with additional staff and sufficient resources. The proposal received comments from civil society organisations and the Human Rights and Equality Commission, remarking a lack of details on the organisation of legal counselling and suggesting to implement higher standards than the APR, for example to continue with the current system of offering legal assistance throughout the procedure instead of introducing legal counselling.

Similarly Bulgaria plans legislative changes to increase resources, the scope and the role of the National Legal Aid Bureau in order to provide legal assistance at the border procedure, for additional categories of applicants and to ensure effective access to appeals.

Czechia already amended the Asylum Act, which enshrines the right to legal information and counselling under amended Article 21. The amendment is set to enter into force on 12 June 2026 and foresees that the ministry will designate persons authorised to provide free legal information and counselling while the method of implementation will be under the competence of reception and detention facilities. The provision excludes the right to legal counselling for subsequent applications or when the applicant already has a representative. The amendment does not entail a major change from the current system.

In Sweden, there are two proposals on legal counselling, legal aid and representation under the Pact. The first one, set to enter into force on 1 January 2026, is centred around measures aimed to tighten requirements to act as public counsel in the asylum procedure in order to ensure quality, efficiency and integrity of the system. The proposed changes include: i) reinforced eligibility and qualification requirements for the legal representation of unaccompanied minors; ii) stricter eligibility requirements for public counsels and quality assessments; iii) formal authorisation required for the substitution of a public counsel; iv) the possibility for applicants to appeal against the designation of a public counsel; v) new mandate for the Swedish Migration Agency and the police authority to process data to assess a person's suitability as a public counsel; and v) adjustments on the remuneration of a public counsel.

The second proposal on adaptations for the minimum level of requirements envisages the following limitations: i) 1 hour of free legal counselling in the administrative phase, with the possibility to extend to a second hour of guidance; ii) stricter conditions for access to legal aid in appeals; and iii) removal of the current system where applicants can obtain free legal assistance and representation for procedures before the Swedish Migration Office. The Swedish Refugee Law Centre and UNHCR expressed concerns over the proposal, emphasising a risk of less efficient procedures if applicants do not receive sufficient support to understand the procedures, which also impacts unaccompanied minors if the proposal does not entail additional safeguards and time for legal counselling.

The German government adopted the draft law to adapt national law to the Pact on 3 September 2025 but the legislative process is still ongoing. According to the draft law, a new Article 12b is introduced to the Asylum Act, stipulating that the Federal Office for Migration and Refugees (BAMF) will provide free legal information and legal counselling upon request, in line with Article 16 of the APR. An additional Article 12c of the Asylum Law will regulate access to the premises for providers of legal counselling and assistance, except for legal representatives.

Some German organisations[3] raised concerns about a potential risk of conflict of interest if BAMF provides legal counselling, whereas Article 19(1) of the APR stipulates that it should be provided by a legal advisor authorised under national law or an accredited civil society organisation. The current system of independent legal counselling contracted by BAMF under Article 12a of the Asylum Law will not be affected by the proposed draft amendment, and organisations suggested to strengthen its scope by cooperating with lawyers and offer better protection to applicants with special needs.

The Netherlands foresees major changes to the legal aid system in view of the implementation of the Pact, and the proposed amendments to the current framework comprises a set of new and complex procedures. Legal professionals pointed to the risk of an additional burden on asylum lawyers to spend more time on advice to asylum seekers, preparation of the case file and increased workload under the 'two-status system'. The report on the expected impact of implementation identified similar challenges.

2. Organisation of services in the administrative phase

The provision of qualified legal support at an early stage of the asylum procedure enables the applicant to better understand the process and increases the efficiency and fairness of the entire procedure. Since Member States have flexibility in the organisation of services, this has led to diversity in policies and practices about state-funded legal aid.

Legal aid is the most effective when: i) the scope is well defined and procedural guarantees are in place; ii) applicants can freely communicate with their counsellors in any location; iii) access to files is ensured; and iv) additional safeguards are in place for special procedures.

As a minimum for first instance determination, the recast APD requires Member States to ensure access to free legal and procedural information upon request and if certain conditions are met. Some countries opted for conditional access to legal assistance based on a sufficient

[3] See for example comments on the draft law by the Federal Bar Association (July 2025), the German Association of Women Lawyers (July 2025) and Amnesty International (July 2025).

means test, while others provide legal aid from the onset as asylum applicants are deemed to lack resources.

2.1. Service providers for legal counselling and legal assistance

State-funded legal aid at first instance is available in 22 out of 30 EU+ countries.[4] In most of these countries, legal aid is administered through bar associations, specialised legal aid bodies, lawyers appointed by the competent authority, law firms contracted by tender or a state-owned agency.

In a few of these countries, namely Croatia, France, Italy, Germany, Portugal and Switzerland, the provision of counselling and legal assistance is entrusted to civil society organisations, welfare organisations or comparable entities operating under statutory mandates, contracts assigned based on public tenders or formal agreements with the national authorities. For example, in Croatia, legal counselling is provided by organisations working to protect the rights of refugees or by attorneys with whom the ministry concludes specific agreements. Similarly, legal support in Portugal is entrusted to the Refugee Council based on a memorandum of understanding with the Ministry of Home Affairs and UNHCR.

Due to the diversity of national systems and different names attributed by national legislators, some countries may use the term 'legal counselling' but the defined scope may overlap with the activities envisaged under legal assistance.

In France, the provision of legal assistance is organised through services contracted by national authorities with civil society organisations, but the level of support depends on the type of reception services accessed by the applicant. In Switzerland, the State Secretariat for Migration awards legal aid mandates through public tenders, with the most recent from July 2024 with four organisations given contracts for legal counselling and legal representation in federal asylum centres for March 2025-February 2027.

Germany has a comprehensive legal support system in the administrative procedure, with four components: i) legal and procedural information provided by BAMF; ii) state-funded, free legal counselling provided by an organisation pursuant to Article 12a of the Asylum Act; iii) legal information and counselling provided by independent civil society and welfare organisations (not state-funded); and iv) legal representation by authorised lawyers.[5] The scope of legal counselling encompasses a wide range of activities defined by BAMF, including individualised legal guidance on the procedure, guidance on relevant documents to submit, explanations on the course of action for the interview and eventual consequences, and advice on avenues after the decision is adopted. The large network of legal counselling providers must meet specific requirements of authorisation, judicial office or supervision and have adequate training, pursuant to Article 6 of the Legal Services Act.

[4] Namely Austria, Belgium, Bulgaria, Czechia, Croatia (legal counselling), Czechia, Denmark, Italy, Finland, France, Germany (legal counselling), Hungary, Iceland, Ireland, Lithuania, Luxembourg, the Netherlands, Norway, Romania, Spain, Sweden, and Switzerland (legal counselling and representation).
[5] Section 14 of the the Administrative Procedures Act distinguishes between legal counselors and legal representatives, as they have different roles.

In contrast, state-funded legal aid is not provided at first instance in Cyprus, Estonia, Greece, Latvia, Malta, Poland and Slovenia. In Slovakia, it is generally not provided except for cases remitted on appeal for a re-examination.

Generally, civil society organisations play an important role in providing free legal assistance, especially when state-funded legal aid is not available, but also in parallel and complementing state schemes. Most EU+ countries have civil society organisations that provide legal aid at different stages of the asylum procedure, often through specific projects and initiatives supported by private sources and national or EU funding.

The EU's Asylum, Migration and Integration Fund (AMIF) is used to co-finance the BBU's legal assistance in Austria, and projects implemented by civil society organisations to provide legal counselling or legal assistance in Bulgaria (dedicated project for vulnerable applicants), Cyprus, Czechia, Estonia, France, Ireland, Romania and Slovakia.

In contrast, in Iceland and Luxembourg where legal assistance is primarily state-funded, the role of civil society organisations is limited to providing legal information, guidance and counselling.

Additional support for applicants with special needs

In some countries, projects implemented by civil society organisations provide legal and other support to applicants with special needs. For example PROMISE, implemented by Terre des Homme Romania, aims to increase the protection system for children, especially for unaccompanied minors. The LEILAW project in Luxembourg offers legal guidance to victims of gender-based violence. Projects by organisations in Bulgaria (SUN project) and Portugal (Refugee Council) target assistance for unaccompanied minors.

Queer Base in Austria offers legal counselling to LGBTIQ applicants and has an agreement with the BBU to provide training to their legal counsels on aspects related to LGBTIQ applicants. The Finnish Refugee Advice Centre offers legal support to victims of trafficking in human beings, and the Organisation for Aid to Refugees (OPU) in Czechia provides legal support to vulnerable applicants, including victims of torture, trafficking and LGBTIQ asylum applicants.

In March 2024, the Austrian Constitutional Court ruled that the BBU is responsible for legally representing unaccompanied minors during the asylum procedure, including before the Constitutional Court. The court emphasised this responsibility to ensure legal representation, especially when the unaccompanied minor was not assigned to a care centre and did not have a legal guardian.

In June 2023, the Tallinn Administrative Court also stressed the responsibility of the national authority. The court found serious deficiencies in the assessment of a Russian transgender applicant's need for legal aid and procedural support. The court clarified that an applicant's failure to recognise or acknowledge their own need for legal assistance does not in itself mean that such a need does not exist. The court emphasised that in such circumstances the administrative authority must, as a minimum, encourage the applicant to contact the Estonian

Human Rights Centre, thereby ensuring that legal assistance and procedural support are available already during the administrative proceedings.

Pact-related aspects

With regards to service providers, the recast APD distinguishes under Article 21 between legal and procedural information which can be provided by "non-governmental organisations or professionals from government authorities or specialised services of the State" and legal assistance and representation in appeals that can be provided "only through the services of legal advisers or counsellors specifically designated by national law to provide legal aid".

The APR adopts a uniform approach in the wording related to those who can provide legal counselling, legal assistance and representation and refers throughout the regulation to a 'legal adviser or counsellor' and civil society organisation accredited" under national law to provide legal services or representation to applicants". There is a shift towards ensuring higher-quality standards through strengthened requirements and qualifications for those who can provide legal support in the asylum procedure.

2.2. Conditions to access legal assistance

In the majority of EU+ countries that provide state-funded legal aid, the assistance is granted only upon request by the applicant. In the Netherlands, however, legal aid is provided automatically at first instance. Asylum applicants are appointed a legal adviser/ lawyer *ex officio* as soon as they register their application for international protection, without the need to file a separate request. Similarly in Switzerland, every applicant is automatically granted full legal representation from the beginning of the procedure without the need to submit a request. Once allocated to a canton, they may then apply to the competent legal advice office of that canton for advice or representation during the first-instance procedure.

In Austria, legal assistance is granted *ex officio* by the BBU, while in Czechia assistance is provided without specific requirements, free of charge by lawyers from a law firm selected through a tender organised by the Ministry of the Interior. A public counsel is appointed from a specific registry for asylum applicants in Sweden, when deemed necessary by the Swedish Migration Agency.

There are various practices across EU+ countries in the application of a means test to demonstrate a lack of financial resources to be eligible for state-funded legal aid at first instance. A means test is applied in 10 countries,[6] while 9 countries[7] presume that asylum

[6] Bulgaria, Croatia and Denmark (for steps 2 and 3 of public legal aid), Finland, Ireland, Lithuania, Luxembourg, Norway (except for cases on exclusion clauses and unaccompanied minors), Romania and Spain.
[7] Austria, Belgium, Czechia, Germany, Hungary, Iceland, the Netherlands, Sweden and Switzerland.

applicants lack sufficient resources to bear the costs of legal aid and thus the test is not required.

In Denmark, all applicants are entitled to basic legal advice, while access to broader consultation and representation is conditional upon both a means test and a merits test. Similarly, Belgium distinguishes between different tiers of legal assistance: first-line assistance is free of charge for all and second-line assistance is normally subject to a means test. Asylum applicants, however, are presumed to lack sufficient financial resources and are therefore entitled to receive second-line assistance free of charge.

In Cyprus, where state-funded legal assistance at first instance is not available, legal and procedural information may be provided upon request and subject to a means test. However, unaccompanied minors are exempt from the means test. Legal and procedural information must at least cover the examination procedure, tailored to the applicant's circumstances, and in case of rejection, the reasons for the decision, the appeal options and relevant deadlines. It may be provided by civil society organisations, state professionals, specialised services, private lawyers or advisers, or Asylum Service officials are not involved in the case.

Merits tests for accessing state-funded legal aid at first instance are less commonly applied, yet they do exist in certain jurisdictions. For example, Belgium (Article 508/14 of the Judicial Code), Ireland (Article 28(2)(b)-(e) Civil Legal Aid Act 1995) and Luxembourg (Article 16 of the Law of 7 August 2023) foresee such requirements in their national frameworks. These provisions may include conditions such as the case not being manifestly unfounded or inadmissible and having a reasonable prospect of success.

2.3. Scope of assistance and procedural aspects

The recast APD provides under Article 19 an obligation for Member States to provide legal and procedural information during first instance determination, while legal assistance is optional. All countries implemented this requirement free of charge without any tests, except Cyprus which requires a means test to access legal and procedural information *(see Section 2.2.)*.

Some countries, such as Croatia, Germany, Portugal and Switzerland, already offer state-funded, free legal counselling by civil society or welfare organisations, provided that the latter are selected either through tender or specific agreements concluded with the determining authority *(see Section 2.1.)*. However, within the diverse national systems, sometimes legislation refers to legal counselling, but the description of actual activities entrusted to the legal counsel may overlap with activities usually included under legal assistance.

In general, most countries foresee in their legislation and allow, in practice, the presence of legal advisers or legal representatives at the personal interview, who can intervene at the end. However, this right does not prevent the determining authority from conducting the interview in the absence of a legal adviser or representative.

The extensive role of the legal adviser during the first instance procedure derives from legislation or specific guidance, as for example in Iceland where the role of advocates is well

defined and in Switzerland where the State Secretariat for Migration conceptualised a specific guidance on legal assistance.

Finland and Hungary introduced new legislative provisions to allow and regulate the arrangements for the presence of a legal adviser when interviews are conducted remotely. In Finland since June 2024, a counsel can participate in an interview remotely only if the method of participation meets the legal information security requirements and does not pose a risk to the confidential information processed in the asylum interview. Remote presence requires an assessment of compliance with the information security requirements and a separate agreement with the Finnish Immigration Service. Similarly in Hungary, Section 43(5) of the Asylum Act grants the right of legal aid providers to attend the personal interview, even though the interview is conducted through a private communication network.

Pact-related aspects

While the presence and role of the legal adviser during the personal interview are similarly regulated, the APR explicitly introduces the right of applicants to be allowed time to consult with the legal counsel or adviser, especially when the substantive interview is conducted at the same time as the admissibility one. It includes the right of the legal adviser to have access to the recording of the interview as soon as possible and before a decision is adopted. As a novelty, the APR introduces the possibility, as a derogation, to hold the personal interview by video conference, provided that the necessary arrangements are in place for safeguards. A stronger nuance on the format and timeframe for the notification of a decision is foreseen in the APR as the determining authority must give notice in writing as soon as possible when a decision is adopted.

Access to premises for legal aid providers

The persons authorised or permitted under national law to provide legal support must have access to premises, such as border and transit zones, reception and detention facilities. In general, legislation in all EU+ countries stipulates that applicants must be allowed to communicate with and be visited by lawyers, UNHCR and civil society organisations providing legal advice.

In practice, there are some recurrent challenges with having contact with a lawyer, restrictions on accessing certain facilities or insufficient legal information. However, prior agreements with competent authorities have proved to facilitate smoother access. For example, in Czechia, OPU is implementing AMIF-funded projects with predefined times and places where the organisation provides legal support. This facilitated access to all reception and detention facilities, but the projects are limited in time, and delays or no extensions may hinder access. Similarly in Croatia, organisations with a contract with the Ministry of the Interior can have effective access to border-crossing points, transit areas of an airport, seaport or inland.

Likewise, prior agreements are also implemented in Austria, Belgium, Denmark, Estonia, France, Luxembourg, Slovakia and Switzerland.

In 2023, the German Federal Administrative Court held that neither national law nor the recast APD grant civil society organisations a right to access reception facilities to provide legal information and assistance. The court noted that Section 12a of the Asylum Act enshrines state-funded counselling by organisations independent from the authorities, but it does not entail a right for these providers to enter facilities without a prior mandate or an explicit request by an asylum applicant. The court emphasised that an organisation cannot claim that such a right derives from previous administrative practices in connection with the principle of protection of legitimate expectations or from the requirement of equal treatment with other organisations with access rights, because the recast APD and Article 18 (2)(c) of the Reception Conditions Directive do not grant legal advisers and civil society organisations a right to access reception facilities without prior authorisation by an asylum seeker. The court clarified that such access envisages as a prerequisite the desire for advice previously expressed by a specific asylum seeker without adding unreasonable difficulties in the provision of such counselling.

Pact-related aspects

The APR mirrors the recast APD provisions on access to premises for organisations and persons permitted under national law to provide legal counselling and legal advice. The APD stipulates that Member States may lay down rules for access, while the wording in the APR provides the possibility under national law to conclude prior agreements with competent authorities, as is current practice in some countries.

Access to files and confidential information

To render effective and tailored legal support, lawyers and legal advisers/counsellors need not only time and the possibility to communicate with a client, but also access to files, statements, script of the personal interview, country of origin information and access to confidential data in cases related to national security. National legislative frameworks generally provide the right to the applicant and the legal assistant or representative to consult relevant files based on which a decision is made, and no major challenges have been reported.

However, applicants and their legal representatives have limited or no access to classified or confidential data due to the sensitivity of the information and high-level risks when related to national security grounds. Article 23 of the recast APD enshrines additional safeguards to protect applicants' right to defence. A recent comparative study by the Hungarian Helsinki Committee investigated national systems with the aim of providing a comparative overview of the applicant's right to access classified information in immigration-related procedures and whether national systems are aligned with European standards deriving from legislation and jurisprudence.

The CJEU case *GM v Országos Idegenrendeszeti Főigazgatóság, Alkotmányvédelmi Hivatal, Terrorelhárítási Központ* (C- 159/21, 22 September 2022) ruled that, while the right to defence may be limited, Article 23(1) of the recast APD does not allow competent authorities to exclude applicants and their legal representative from having effective knowledge of the substance of the grounds contained in the restricted file. The CJEU clarified that, although the right to information can be limited based on a weighing of interests, EU law opposes national legislation which permits a person or their legal adviser to access the case file only after obtaining authorisation. In addition, the prohibition to use the information in the administrative or judicial procedure, after obtaining authorisation to access that information, does not sufficiently guarantee the right to defence, as provided by Article 47 of the EU Charter.

The CJEU highlighted that the determining authority must conduct its own assessment of the facts and individual circumstances and reason its decision, but it cannot rely entirely on a decision adopted by another authority. The national authority must also assess the scope and relevance of the information provided by national security bodies and cannot rely on a non-reasoned opinion given by national security bodies when the factual basis and assessment by these bodies was not disclosed to the determining authority.

These principles were further reiterated by the CJEU in the judgment *NW (C-420/22), PQ (C-528/22) v Országos Idegenrendészeti Főigazgatóság, Miniszterelnöki Kabinetirodát vezető minister* (25 April 2024).

Pact-related aspects

Article 12(1d) of the APR mirrors Article 8(5) of the recast APD on access to information in the applicant's file. However, the phrasing of Article 18(1) of the APR slightly differs and appears more restrictive in the sense that the APR provides that a legal adviser who legally represents the applicant can access information in the file based on which a decision is or will be made, whereas the recast APD grants access to the same information to a legal adviser or counsellor who assists or represents an applicant.

On access by legal advisers or counsellors to restricted information used in the decision-making process, the regulation relies on national legal solutions for refusing access to sources and information. When comparing Article 23(1) of the recast APD with Article 18(2) of the APR, the latter appears more detailed, with nuances indicating a restrictive approach, since it expands the list of grounds to deny access to information and sources deemed classified under national law.

Safeguards for access to restricted information are similar regarding the need to ensure respect for the right to defence and that the legal adviser must undergo a security check to access the information if it is relevant for decision-making on the application or the withdrawal of protection. However, the wording slightly differs in the APR since such information or sources can be disclosed only to a court or tribunal during the appeals procedure, while ensuring the applicant's right to defence.

2.4. Access to and provision of legal assistance in special procedures

In the majority of EU+ countries, the rules governing access to and provision of legal assistance and representation for the regular procedure apply to the same extent in special procedures (border, accelerated, admissibility and subsequent applications).[8] Nonetheless, due to diverse national systems, some provisions and practices are different.

In Austria, applicants are provided with an additional safeguard in the admissibility procedure, namely a right to legal advice if, after the notification of an inadmissibility decision, they wish to conduct a hearing before the Federal Office for Immigration and Asylum (BFA) within 72 hours of the notification to ensure the right to be heard. Thus, the legal adviser must be present at the interview. The same safeguard applies to unaccompanied minors to ensure legal representation until the end of the admissibility procedure.[9]

For the airport procedure in Germany, Section 18a of the Asylum Act provides that applicants must be given the opportunity to contact a legal counsel of their choice, unless the applicant has previously secured legal assistance from a lawyer. ProAsyl reported that Church Refugee Services include counselling and preparing for the interview before BAMF, with the possibility to accompany applicants throughout the entire procedure. When special needs are identified, a legal adviser can assist during the interview, with funding from ProAsyl. The Federal Constitutional Court ruled that obtaining legal protection in the airport procedure must not be made unreasonably difficult or even impossible. Thus, rejected applicants in the airport procedure are entitled to free, high-quality and independent legal representation in appeals.

Similarly in Spain, the Asylum Law provides reinforced guarantees for the border procedure because legal assistance is mandatory for applicants at the border (Articles 16(2) and 21). Applicants for international protection are always assisted by a lawyer during the interview with the border police and the Oficina de Asilo y Refugio (OAR) during a border procedure and for appeal proceedings.

In the Netherlands, legal aid is provided before the interview for applications examined under the accelerated procedure, automatically granted at the beginning in a border procedure but not granted in advance for subsequent applications until the application is deemed admissible and an interview is scheduled.

In Switzerland, the Asylum Act comprises special provisions for free legal counselling (Article 102g) and legal representation (Article 102h(3) in the accelerated procedure until a final decision is adopted. However, free, state-funded legal aid is not granted for appeals if lodged against a decision on re-examination, review of proceedings or concerning a subsequent application, pursuant to Article 102m(2) of the Asylum Act. For these appeals, Article 65(2) of the Administrative Procedure Act stipulates that the Federal Administrative Court would

[8] Belgium, Bulgaria, Croatia, Czechia, Greece, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands (border procedure), Portugal (no state-funded for first instance as in the regular procedure), Romania, Slovakia, Slovenia, Spain (admissibility) and Sweden.
[9] See Section 49(1), sentence 3 of the BFA-Procedures Act in conjunction with Section 29(4) of the Asylum Act 2005).

appoint a legal adviser only if it is necessary to safeguard the rights of the applicant, namely specific difficulties in facts or in law.

In contrast, in Greece, Malta and Portugal, free, state-funded legal assistance can be provided only in appeals against decisions related to the application of special procedures.

Pact-related aspects

The APR introduced a mandatory border procedure, but it should not be applied when the safeguards listed in Articles 10-13 of the recast Reception Directive 2024/1346 are required. These include free legal assistance and representation for detained applicants (Article 11(4)) and a judicial review of detention (Articles 11(6) and 29).

The recast APD does not have specific provisions on special procedures, but Recitals 16 and 87 of the APR introduce reinforced safeguards and explicit mention of the entitlement to free legal assistance and representation in appeals against decisions on applications rejected as inadmissible, as manifestly unfounded, implicitly withdrawal, on withdrawal of protection and pending an appeal when determining the right to remain.

Under the APR, the scope of free legal counselling encompasses the provision of assistance and guidance on different procedures and their implications, as well as the rules which apply for the admissibility of an application and information on appeals, pursuant to Article 16(2b). However, the submission of a first or more subsequent application constitutes an exclusion ground from free legal counselling.

3. Legal assistance in appeals

In accordance with the recast APD while Member States may provide legal assistance and representation during the administrative procedure, at the first instance appeal stage they have an obligation to arrange for the right upon request of the applicant. However, Member States may grant access subject to an assessment of the applicant's financial means (means test) or consideration of the tangible probability of the success of the legal proceedings (merits test). The provisions of the recast APD allow discretion to Member States to arrange the modalities for the filing and processing of these requests, giving rise to a large variation in the organisation of access to state-funded legal aid, with responsibilities divided among independent administrative bodies, courts, bar associations, ministries and national asylum agencies, each employing distinct procedures and criteria to grant access to legal assistance and representation.

3.1. State-funded legal aid

In many countries, legal aid for appeals is organised through the services of the courts handling the case. The courts assess whether applicants meet the eligibility criteria and, if so, appoint a state-funded lawyer, often from a list provided by the national bar association.[10] For instance in France, the National Court of Asylum (CNDA) is the competent authority for the first instance appeal and operates its own autonomous Legal Aid Office, which is responsible to assign cases to registered lawyers from a list prepared by the bar of the region where the CNDA hearing will take place.

In Belgium, Italy, Luxembourg, Portugal and Spain, bar associations receive and decide on legal aid applications and appoint lawyers from among their members.

In another group of countries, including Hungary, Ireland, the Netherlands and Slovakia, public specialised bodies are commissioned to organise and implement legal aid in appeals. While the scope of competencies may differ between these bodies, in general, specialised legal aid institutions, such as the Dutch Legal Aid Board, ensure access to legal aid through information provision and assistance in navigating the process of obtaining legal aid. This may include offering preliminary consultations, directly receiving and examining applications, making decisions on eligibility and further delivering legal aid services, often in collaboration with other relevant stakeholders such as national bar associations and civil society organisations which provide the legal services.

In Croatia, Malta and Slovenia, ministries responsible for asylum play a central role in organising legal aid for appeals. They do so through agreements with contracted service providers and by developing pools of accredited lawyers specifically dedicated to asylum cases. In Croatia and Slovenia, applicants receive a list of lawyers and are responsible for contacting one themselves. In Malta, applicants must indicate on their appeal form that they require legal aid; the court then refers the request to the ministry, which assigns the case to one of the legal aid lawyers specialised in asylum.

Finally, in some countries, the organisation of legal aid falls under national asylum agencies, including determining authorities and reception agencies. In Greece, Iceland, Norway and Poland, the respective determining authority maintains their own registry of attorneys specialising in asylum law who can provide legal aid. In Lithuania, the Reception and Integration Agency contracts legal aid providers through procurement agreements, while in Austria, the BBU directly employs full-time legal advisers and lawyers to assist and represent asylum seekers at the first instance appeal stage.

3.2. Role of civil society organisations

Civil society organisations across EU+ countries play an important role in assisting applicants to navigate national systems. Their activities range from providing legal information to

[10] This system is used in Bulgaria, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Latvia, Romania, Sweden and Switzerland.

supporting with the application for state-funded legal aid, giving legal advice, guidance and counselling, and preparing the appeal.[11]

Although less common, in some countries lawyers from civil society organisations can not only assist but also represent an applicant. For example in Croatia, the Ministry of Justice and Public Administration awarded the Croation Law Centre (CLC) a contract to financially support a project designed to provide applicants with legal assistance and representation, including at the appeals stage.

In addition to state-funded legal aid, lawyers from civil society organisations in Bulgaria (e.g. Bulgarian Helsinki Committee, Centre for Legal Aid), Estonia (Estonian Human Rights Centre) and Hungary (Hungarian Helsinki Committee) play an important role in providing legal assistance and/or representation before the courts. They are remunerated through projects which are funded by UNHCR and/or other grants.

In Greece, the Ministry of Migration keeps a dedicated registry of organisations which can provide legal aid, but legal representation is possible only through a qualified lawyer. While the Ministry of Home Affairs in Malta has its own pool of accredited attorneys, legal assistance and representation is often provided by the Aditus Foundation.

In certain countries, namely Belgium, Iceland, Italy, Luxembourg and Slovenia, civil society organisations are expressly not permitted to provide representation at the appeals stage.

3.3. Conditions to access legal assistance

A means test is applied in the majority of EU+ countries for a first instance appeal,[12] but is only applicable for onward appeals in Austria, Iceland and France.

In general, countries applying a means test require applicants to complete a questionnaire when applying for legal aid, providing details on age, health, employment, marital status, assets, income including for family members, dependents, expenditures and liabilities, and supporting documents. The assessment of sufficient means is carried out either on a case-by-case basis or against established national financial thresholds, which vary widely between countries. In contrast, in Croatia information on the applicant's financial situation is collected when the asylum application is lodged.

When legal assistance is already provided during the administrative procedure, the same lawyer generally continues to assist the applicant during the appeal, without a separate application for legal aid. This is the case in Austria (for a first instance appeal), the Netherlands and Iceland. In Denmark, lawyers are appointed by the court *ex officio*, without the need for a separate application. In Cyprus and Hungary, an exemption from the means test for asylum applicants is provided by law. In Belgium and the Netherlands, exemptions apply in practice, based on the presumption that applicants lack sufficient means.

The majority of EU+ countries do not apply a merits test, which considers the likelihood of success of the legal proceedings, when deciding on applications for legal aid for. Only

[11] See Annex IV on the organisation of legal aid at second instance determination.
[12] Bulgaria, Croatia, Czechia, Estonia, Finland, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and Switzerland.

Belgium, Cyprus, Czechia, Estonia, Germany, Ireland, Italy, Luxembourg, Portugal and Switzerland apply a merits test for an appeal at first instance. Austria, Greece and Iceland apply the merits test only for onward appeals.

Generally, the merits test is decided by the presiding judge of the relevant court, who assesses the applicant's file and the facts of the case, taking into account applicable case law. These tests are usually conducted without a hearing, although in Cyprus, the Administrative Court of International Protection has highlighted the applicant's right to be heard, whilst clarifying that the burden of proof lies with the applicant to demonstrate the prospect of success of their claim.

In Germany, when assessing eligibility for legal aid, national legislation requires courts to carry out their own enquiries, which may include: i) asking applicants to substantiate their claims; ii) requiring documentation; or iii) seeking additional information. When necessary, the court may also hear witnesses or experts. Legal aid may be refused if the applicant fails to answer questions or provides insufficient responses.

In Ireland, the Legal Aid Board carries out the merits test pursuant to Section 28 of the Civil Legal Aid Act, which defines it as a 'reasonable likelihood of success'. In Italy, Luxembourg and Portugal, the merits test is conducted by the respective national bar associations.

3.4. Onward appeals

The recast APD permits legal assistance and representation at all stages of an appeal upon the applicant's request but obliges Member States to provide it only at the first instance appeal. In most countries where onward appeals are available, legal aid continues to be provided, though a separate application may be required for each onward appeal.

Croatia, Cyprus and Lithuania do not provide free legal aid for onward appeals, while Denmark, Ireland, France and Switzerland may grant it in exceptional cases. For example, in Ireland, if a first instance appeal before the International Protection Appeals Tribunal is unsuccessful, the applicant must seek the assistance of a private practitioner to receive advice about challenging the decision by way of a judicial review before the High Court. Legal aid is not usually provided for a judicial review, although the Legal Aid Board can assist in contacting a private solicitor if required. Only if private legal assistance cannot be obtained, the Legal Aid Board may consider the merits of the application for a judicial review and may apply for legal aid to cover the costs of the proceedings.

Similarly in France, free legal aid for an onward appeal can be accessed only by minor applicants or third-country nationals subject to a return decision who lack sufficient means. Exceptionally, legal aid may also be granted if the case is deemed particularly significant given the subject matter of the dispute.

In Switzerland, Article 64 of the Federal Supreme Court Act stipulates both a means and merits test, but the court appoints a lawyer if necessary to protect the applicant's rights. In addition, mandatory legal representation at second, onward and/or cassation appeals is required in Austria, Belgium, Czechia, Finland, France, Germany, Greece, Poland and Spain.

Pact-related aspects

The APR largely replicates the recast APD for legal assistance and representation in appeals, keeping the sufficient means and merits tests while adding the abuse of appeal as a new ground for exclusion. It must be provided for first instance appeals, but it may not be free for second or higher levels of appeals based on national law.

3.5. Jurisprudence related to procedural safeguards during court proceedings

Several national courts have underlined that asylum applicants must be provided with adequate legal support during the procedure, with the presence of a legal representative at court hearings as an essential safeguard to ensure fair procedures.

In June 2025, the Austrian Constitutional Court held that the Federal Administrative Court had infringed the constitutionally-guaranteed right to equal treatment of foreigners by failing to verify the applicant's consent to conduct the oral hearing without the legal representative. It was noted that the judge of the lower court neither asked whether the applicant wished to continue in the absence of his legal representative nor informed him of his right to involve the counsel. The Constitutional Court found it insufficient for the BBU to notify the Federal Administrative Court that the applicant did not object to the hearing being held without his lawyer. In fact, the Constitutional Court established an obligation for the deciding court to directly seek the necessary information and obtain the applicant's express consent to waive his right to be assisted by his legal representative during the hearing.

Similarly in March 2025, the Belgian Council of State found that the Royal Decree of 26 November 2021 unlawfully allowed the exclusion of lawyers and guardians from hearings due to confidentiality reasons, thus infringing the applicant's rights to legal assistance and to be heard. It held that the decree altered the regulatory framework by permitting the Commissioner General for Refugees and Stateless Persons (CGRS) to exclude lawyers from remote hearings and emphasised that Article 23 of the recast APD does not permit exceptions to the right to be accompanied by a legal adviser. The Council of State also clarified that, if a lawyer's remote presence may raise confidentiality concerns, the administration must find an alternative solution because it is not allowed to prohibit the lawyer's assistance under any circumstances.

In April 2024, the French CNDA ruled that the physical presence of legal representatives is required during court sessions, even when the applicant has expressly agreed to remote representation. Although the applicant's lawyer participated by audiovisual means at the hearing, it rendered that Article L. 532-13 of the Code of Entry and Residence of Foreigners and the Right to Asylum (CESEDA) imposes an obligation of physical presence for legal representatives.

For more information on the appeals system, consult the EUAA Case Law Database. The platform is updated on a regular basis and includes information the appeals system for each EU+ country. Additionally, relevant case law on legal assistance and representation in the asylum procedure is available using the search tags: legal aid/legal assistance/representation.

For more analysis, consult the Asylum Report 2025 and its previous editions.

Annex I. Comparative overview of the recast Asylum Procedures Directive and the Pact's Asylum Procedures Regulation

Asylum Procedures Directive (recast)	Asylum Procedures Regulation (APR)
General provisions and procedural rights	
Recital 22 It is also in the interests of both Member States and applicants to ensure a correct recognition of international protection needs already at first instance. To that end, applicants should be provided at first instance, free of charge, legal and procedural information, taking into account their particular circumstances. The provision of such information should, inter alia, enable the applicants to better understand the procedure, thus helping them to comply with the relevant obligations. It would be disproportionate to require Member States to provide such information only through the services of qualified lawyers. Member States should therefore have the possibility to use the most appropriate means to provide such information, such as through non-governmental organisations or professionals from government authorities or specialised services of the State.	**Recital 14** (...)The applicant should be given sufficient time to prepare and consult with his or her legal adviser or other counsellor admitted or permitted as such under national law to provide legal advice (the 'legal adviser') or a person entrusted with providing legal counselling. During the interview, the applicant should be allowed to be assisted by the legal adviser. The personal interview should be conducted under conditions which ensure appropriate privacy and confidentiality and by adequately trained and competent staff, including where necessary, experts deployed by the Asylum Agency or staff from authorities of other Member States. Where the interview on the merits is omitted with a view to ensuring swift access to international protection, this should be without prejudice to the obligation to examine whether the applicant fulfils the conditions set out in Regulation (EU) 2024/1347 to be granted refugee status before examining whether the applicant fulfils the conditions to be granted subsidiary protection. Given that the personal interview is an essential part of the examination of the application, the interview should be recorded and the applicants, their representatives and their legal advisers should be given access to the report or transcripts of that interview as soon as possible after it takes place and in any case in due time before the determining authority takes a decision.
Recital 23 In appeals procedures, subject to certain conditions, applicants should be granted free legal assistance and representation provided by persons competent to provide them under national law. Furthermore, at all stages of the procedure, applicants should have the right to consult, at their own cost, legal advisers or counsellors admitted or permitted as such under national law.	**Recital 16** It is in the interests of both Member States and applicants that applicants receive at a very early stage comprehensive information on the procedure to be followed and on their rights and obligations. In addition, it is essential to ensure a correct recognition of international protection needs already at the stage of the administrative procedure by providing good quality information and legal support which leads to more efficient and better-quality decision-making. For that purpose, access to legal counselling, assistance and representation should be an integral part of the common procedure for international protection. Applicants should, as soon as possible after an

Asylum Procedures Directive (recast)	Asylum Procedures Regulation (APR)
	application for international protection has been registered, upon their request, be provided with free legal counselling during the administrative procedure. Furthermore, to ensure the effective protection of the applicant's rights, particularly the right of defence and the principle of fairness, applicants should, upon their request and subject to conditions set out in this Regulation, be provided with free legal assistance and representation in the appeal procedure. It should also be possible for Member States to provide for free legal assistance and representation during the administrative procedure in accordance with national law.
Recital 25 (...) Moreover, the procedure in which an application for international protection is examined should normally provide an applicant at least with: the right to stay pending a decision by the determining authority; access to the services of an interpreter for submitting his or her case if interviewed by the authorities; the opportunity to communicate with a representative of the United Nations High Commissioner for Refugees (UNHCR) and with organisations providing advice or counselling to applicants for international protection; the right to appropriate notification of a decision and of the reasons for that decision in fact and in law; the opportunity to consult a legal adviser or other counsellor; the right to be informed of his or her legal position at decisive moments in the course of the procedure, in a language which he or she understands or is reasonably supposed to understand; and, in the case of a negative decision, the right to an effective remedy before a court or a tribunal.	**Recital 87 Special procedures** Ensure an effective remedy in cases of decisions taken on applications being rejected as inadmissible, as unfounded or manifestly unfounded in relation to refugee or subsidiary protection status, or as implicitly withdrawn, as well as decisions to withdraw refugee or subsidiary protection status. For this purpose, applicants should be entitled to free legal assistance and representation in appeals to meet the time limits and have effective access to a judicial review.
	Recital 93. Right to remain The applicant's right to defence must be guaranteed by being provided with legal assistance during the procedure to determine whether the person is allowed to remain on the territory pending an appeal.
Article 29. The role of UNHCR 1. Member States shall allow UNHCR: a) to have access to applicants, including those in detention, at the border and in transit zones; b) to have access to information on individual applications for international protection, the course of the procedure and the decisions taken, provided that the applicant agrees thereto; c) to present its views, in the exercise of its supervisory responsibilities under Article 35 of	**Article 6. The role of UNHCR** 1. Member States shall allow the United Nations High Commissioner for Refugees to: a) have access to applicants, including those in reception centres, in detention, at the border and in transit zones; b) have access to information on individual applications for international protection, the course of the procedure and the decisions taken, subject to the consent of the applicant;

Asylum Procedures Directive (recast)	Asylum Procedures Regulation (APR)
the Geneva Convention, to any competent authorities regarding individual applications for international protection at any stage of the procedure.	c) present its views, in the exercise of its supervisory responsibilities under Article 35 of the Convention of 28 July 1951 Relating to the Status of Refugees, as supplemented by the New York Protocol of 31 January 1967 (the 'Geneva Convention'), to any competent authorities regarding individual applications for international protection at any stage of the procedure. 2. Paragraph 1 shall also apply to an organisation which is working on the territory of the Member State concerned on behalf of the United Nations High Commissioner for Refugees pursuant to an agreement with that Member State.
Article 12(1c) 1. With respect to the procedures provided for in Chapter III, Member States shall ensure that all applicants enjoy the following guarantees: (c) they shall not be denied the opportunity to communicate with UNHCR or with any other organisation providing legal advice or other counselling to applicants, in accordance with the law of the Member State concerned.	**Article 8(4)** The competent authorities shall provide applicants as soon as possible, and before the deadline for lodging an application in accordance with Article 28(1), the opportunity to communicate with UNHCR or any other organisation which provides legal advice or other counselling to applicants, in accordance with national law.
Access to border and transit zones, detention and reception facilities	
Article 8(2) Member States shall ensure that organisations and persons providing advice and counselling to applicants have effective access to applicants present at border-crossing points, including transit zones, at external borders. Member States may provide for rules covering the presence of such organisations and persons in those crossing points and in particular that access is subject to an agreement with the competent authorities of the Member States. Limits on such access may be imposed only where, by virtue of national law, they are objectively necessary for the security, public order or administrative management of the crossing points concerned, provided that access is not thereby severely restricted or rendered impossible.	**Article 30(3)** Organisations and persons permitted under national law to provide advice and counselling shall have effective access to applicants held in detention facilities or present at border-crossing points, including transit zones, at external borders. Such access may be subject to a prior agreement with the competent authorities. Member States may impose limits on access as referred to in the first subparagraph, by virtue of national law, where they are objectively necessary for the security, public order or administrative management of a border crossing point, including transit zones, or detention facility, provided that access is not severely restricted or rendered impossible.
Article 23(2) Member States shall ensure that the legal adviser or other counsellor who assists or represents an applicant has access to closed areas, such as detention facilities and transit zones, for the purpose of consulting that applicant, in accordance with Article 10(4) and Article 18(2b) and (c) of Directive (EU) 2013/33/EU.	**Article 18(3)** The applicant's legal adviser or the person entrusted with providing legal counselling who counsels, assists or represents an applicant shall have access to closed areas, such as detention facilities and transit zones, for the purpose of counselling, assisting or representing that applicant, in accordance with Directive (EU) 2024/1346.

Asylum Procedures Directive (recast)	Asylum Procedures Regulation (APR)
Right to legal support throughout the procedure	
Article 22. Right to legal assistance and representation at all stages of the procedure 1. Right to consult a legal adviser permitted under the national law for matters related the application legal assistance at all staged of the asylum procedure, at own expense, including following a negative decision; 2. Member States shall allow non-governmental organisations to provide legal assistance and/or representation to both administrative and appeals procedures.	**Article 15 Right to legal counselling and legal assistance and representation** 1. Right to consult a legal adviser at all stages of the procedure. 2. Right to choose own legal adviser/counsellor at the applicant's own's cost and right to free legal counselling in administrative procedure and free legal assistance and representation in appeals. Right to be informed as soon as possible, latest at registration, of the right to free legal counselling or free legal assistance and representation. 3. Member State can provide free legal assistance and representation in the administrative procedure. 4. Member State can provide all three types of legal support in line with their national system.
Right to legal support at the administrative procedure	
Article 19. Free legal and procedural information 1. In procedures at first instance provided for in Chapter III, Member States shall ensure that, on request, applicants are provided with legal and procedural information free of charge, including, at least, information on the procedure in the light of the applicant's particular circumstances. In the event of a negative decision on an application at first instance, Member States shall also, on request, provide applicants with information — in addition to that given in accordance with Article 11(2) and Article 12(1f) — in order to clarify the reasons for such decision and explain how it can be challenged. 2. The provision of legal and procedural information free of charge shall be subject to the conditions laid down in Article 21.	**Article 16 Free legal counselling in the administrative procedure** 1. Member States shall, at the request of the applicant, provide free legal counselling in the administrative procedure provided for in Chapter III. For the purposes of the first subparagraph, effective access to free legal counselling may be assured by entrusting a person with the provision of legal counselling in the administrative stage of the procedure to several applicants at the same time. 2. For the purposes of the administrative procedure, free legal counselling shall include the provision of: a) guidance on and an explanation of the administrative procedure, including information on rights and obligations during that procedure; b) assistance on the lodging of the application and guidance on: i) the different procedures under which the application may be examined and the reasons for the application of those procedures; ii) the rules related to the admissibility of an application; iii) legal issues arising in the course of the procedure, including information on how to challenge a decision rejecting an application, in accordance with Articles 67, 68 and 69.

Asylum Procedures Directive (recast)	Asylum Procedures Regulation (APR)
	3. Without prejudice to paragraph 1, the provision of free legal counselling in the administrative procedure may be excluded where: a) the application is a first subsequent application considered to have been lodged merely in order to delay or frustrate the enforcement of a return decision which would result in the applicant's imminent removal from the Member State; b) the application is a second or further subsequent application; c) the applicant is already assisted and represented by a legal adviser. 4. For the purpose of implementing this Article, Member States may request the assistance of the Asylum Agency. In addition, financial support may be provided through Union funds to the Member States, in accordance with the legal acts governing such funds.
Right to legal assistance and representation in appeals	
Article 20. Free legal assistance and representation in appeals 1. Member States shall ensure that free legal assistance and representation is granted on request in the appeals procedures provided for in Chapter V. It shall include, at least, the preparation of the required procedural documents and participation in the hearing before a court or tribunal of first instance on behalf of the applicant. 2. Member States may also provide free legal assistance and/or representation in the procedures at first instance provided for in Chapter III. In such cases, Article 19 shall not apply. 3. Member States may provide that free legal assistance and representation is not granted where the applicant's appeal is considered by a court or tribunal or other competent authority to have no tangible prospect of success. Where a decision not to grant free legal assistance and representation pursuant to this paragraph is taken by an authority which is not a court or tribunal, Member States shall ensure that the applicant has the right to an effective remedy before a court or tribunal against that decision. In the application of this paragraph, Member States shall ensure that legal assistance and representation is not arbitrarily restricted and that the applicant's effective access to justice is not hindered.	**Article 17. Free legal assistance and representation in the appeal procedure** In the appeal procedure, Member States shall, at the request of the applicant, ensure that he or she is provided with free legal assistance and representation. Such free legal assistance and representation shall include the preparation of the procedural documents required under national law, the preparation of the appeal and, in the event of a hearing, participation in that hearing before a court or tribunal. 2. The provision of free legal assistance and representation in the appeal procedure may be excluded by the Member States where: a) the applicant, who shall disclose his or her financial situation, is considered to have sufficient resources to afford legal assistance and representation at his or her own cost; b) it is considered that the appeal has no tangible prospect of success or is abusive; c) the appeal or review is at a second level of appeal or higher as provided for under national law, including re-hearings or reviews of appeal; d) the applicant is already assisted or represented by a legal adviser. 3. Where a decision not to grant free legal assistance and representation is taken by an authority which is not a court or tribunal on the grounds that the appeal is considered to have no tangible prospect of success or

Asylum Procedures Directive (recast)	Asylum Procedures Regulation (APR)
4. Free legal assistance and representation shall be subject to the conditions laid down in Article 21.	to be abusive, the applicant shall have the right to an effective remedy before a court or tribunal against that decision. For that purpose, the applicant shall be entitled to request free legal assistance and representation.
Conditions for the provision of legal and procedural information/ free legal counselling and legal assistance and representation	
Article 21 1. Member States may provide that the legal and procedural information free of charge referred to in Article 19 is provided by non-governmental organisations or by professionals from government authorities or from specialised services of the State. The free legal assistance and representation referred to in Article 20 shall be provided by such persons as admitted or permitted under national law. 2. Member States may provide that legal and procedural information free of charge referred to in Article 19 and free legal assistance and representation referred to in Article 20 are granted: a) only to those who lack sufficient resources; b) only through the services provided by legal advisers or other counsellors specifically designated by national law to assist and represent applicants. Member States may provide that the free legal assistance and representation referred to in Article 20 is granted only for appeals procedures in accordance with Chapter V before a court or tribunal of first instance and not for any further appeals or reviews provided for under national law, including rehearing or reviews of appeals. Member States may also provide that the free legal assistance and representation referred to in Article 20 is not granted to applicants who are no longer present on their territory in application of Article 41(2c). 3. Member States may lay down rules concerning the modalities for filing and processing requests for legal and procedural information free of charge under Article 19 and for free legal assistance and representation under Article 20. 4. Member States may also: a) impose monetary and/or time limits on the provision of legal and procedural information free of charge referred to in Article 19 and on	**Article 19** 1 Free legal counselling, assistance and representation shall be provided by legal advisers or other counsellors who are admitted or permitted under national law to counsel, assist or represent the applicants or by non-governmental organisations accredited under national law to provide legal services or representation to applicants. 2. Member States shall lay down specific procedural rules concerning the arrangements for filing and processing requests for the provision of free legal counselling, assistance and representation in relation to applications for international protection or they shall apply the existing rules for domestic claims of a similar nature, provided that those rules are not more restrictive or do not render access to free legal counselling or free legal assistance and representation impossible or excessively difficult. 3. Member States shall lay down specific rules concerning the exclusion of the provision of free legal counselling, assistance and representation, in accordance with Article 16(3) and Article 17(2), respectively. 4. Member States may also impose monetary limits or time limits on the provision of free legal counselling, assistance and representation, provided that such limits are not arbitrary and do not unduly restrict access to free legal counselling, assistance and representation. As regards fees and other costs, the treatment of applicants shall not be less favourable than the treatment generally given to their nationals in matters pertaining to legal assistance. 5. Member States may request from the applicant the total or partial reimbursement of the costs incurred in relation to the provision of legal assistance and representation when the applicant's financial situation considerably improves in the course of the procedure or when the decision to provide free legal assistance and representation was taken on the basis of false information supplied by the applicant. For that purpose, applicants shall immediately inform the competent authorities of any significant change in their financial situation.

Asylum Procedures Directive (recast)	Asylum Procedures Regulation (APR)
the provision of free legal assistance and representation referred to in Article 20, provided that such limits do not arbitrarily restrict access to the provision of legal and procedural information and legal assistance and representation; b) provide that, as regards fees and other costs, the treatment of applicants shall not be more favourable than the treatment generally accorded to their nationals in matters pertaining to legal assistance. 5. Member States may demand to be reimbursed wholly or partially for any costs granted if and when the applicant's financial situation has improved considerably or if the decision to grant such costs was taken on the basis of false information supplied by the applicant.	
Access to information for the legal adviser	
Article 12(1d) With respect to the procedures provided for in Chapter III, Member States shall ensure that all applicants enjoy the following guarantees: (d) they and, if applicable, their legal advisers or other counsellors in accordance with Article 23(1) shall have access to the information referred to in Article 10(3b) and the information provided by the experts referred to in Article 10(3d), where the determining authority has taken that information into consideration for the purpose of taking a decision on their application.	**Article 8(5)** The determining authority shall ensure that applicants and, where applicable, their representatives or legal advisers or other counsellors admitted or permitted as such under national law to provide legal advice ('legal advisers') have access to the information referred to in Article 34(2), points (b) and (c), that is required for the examination of applications and to the information provided by the experts referred to in Article 34(3), where the determining authority has taken that information into consideration for the purpose of taking a decision on their application.
Article 23(1) Member States shall ensure that a legal adviser or other counsellor admitted or permitted as such under national law who assists or represents an applicant under the terms of national law shall have access to the information in the applicant's file upon the basis of which a decision is or will be made. Member States may make an exception when disclosure of information or sources would jeopardise national security, the security of the organisations or person(s) providing the information or the security of the person(s) to whom the information relates or where the investigative interests relating to the examination of applications for international protection by the competent authorities of the Member States or the international relations of the Member States would be compromised. In such cases, Member States shall:	**Article 18(1)** A legal adviser who legally represents an applicant under the terms of national law shall be granted access to the information in the applicant's file on the basis of which a decision is or shall be taken. Access to the information or to the sources in the applicant's file may be denied in accordance with national law where the disclosure of information or sources would jeopardise national security, the security of the organisations or persons providing the information or the security of the persons to whom the information relates or where the investigative interests relating to the examination of applications for international protection by the competent authorities of the Member States or the international relations of the Member States would be compromised or where the information or sources are classified under national law. In those cases, the determining authority shall:

Asylum Procedures Directive (recast)	Asylum Procedures Regulation (APR)
a) make access to such information or sources available to the authorities referred to in Chapter V; b) establish in national law procedures guaranteeing that the applicant's rights of defence are respected. In respect of point (b), Member States may, in particular, grant access to such information or sources to a legal adviser or other counsellor who has undergone a security check, insofar as the information is relevant for examining the application or for taking a decision to withdraw international protection.	a) make access to such information or sources available to the courts or tribunals in the appeal procedure; b) ensure that the applicant's right of defence is respected. As regards point (b) of the first subparagraph, Member States shall grant access to information or sources to a legal adviser who legally represents the applicant and who has undergone a security check, in so far as the information is relevant for examining the application or for taking a decision to withdraw international protection.
Personal interview	
n/a	**Article 12(1)** (...) The substantive interview may be conducted at the same time as the admissibility interview provided the applicant has been informed of such a possibility in advance and has been able to consult with his or her legal adviser in accordance with Article 15 or with a person entrusted with providing legal counselling in accordance with Article 16.
	Article 14(6) Applicants and, where they have been appointed, their representatives and their legal advisers shall have access to the report or transcripts referred to in paragraph 1 as soon as possible after the interview and in any case in due time before the determining authority takes a decision.
	Article 13(4), (10), (13) 4. The presence of the applicant's legal adviser at the personal interview, when the applicant has decided to avail himself or herself of legal assistance in accordance with Section III of this Chapter, shall be ensured. 10. By way of derogation, the determining authority may hold the personal interview by videoconference when duly justified by the circumstances. In such a case, the determining authority shall ensure the necessary arrangements for the appropriate facilities, procedural and technical standards, legal assistance and interpretation taking into account guidance from the Asylum Agency. 13. An applicant shall be allowed to be assisted by a legal adviser in the personal interview, including when it is held by video conference. The absence of the legal adviser shall not prevent the determining authority from conducting the interview. Member States may stipulate in national law that, where a legal adviser participates in

Asylum Procedures Directive (recast)	Asylum Procedures Regulation (APR)
	the personal interview, the legal adviser may only intervene at the end of the personal interview.
Notification of the decision	
Article 12(1e). Notification of decision The applicants shall be given notice in reasonable time of the decision by the determining authority on their application. If a legal adviser or other counsellor is legally representing the applicant, Member States may choose to give notice of the decision to him or her instead of to the applicant.	**Article 8(6). Rights and obligations** (6) The determining authority shall give applicants notice in writing as soon as possible of the decision taken on their application. When a representative or legal adviser legally represents the applicant, the determining authority may give notice of the decision to that representative or legal adviser instead of to the applicant.
	Article 36. Decisions on applications (1)(..) Where a representative or legal adviser legally represents the applicant, the competent authority may notify the decision to him or her instead of the applicant. (4) Where the applicant is assisted by a legal adviser who legally represents the applicant, the information referred to in paragraph 3 (**result of the decision and how to challenge it)* may be provided solely to that legal adviser without being translated into a language which the applicant understands or is reasonably supposed to understand. In such a case, the fact of whether or not international protection is granted shall be communicated, in writing, for information to the applicant in a language which he or she understands or is reasonably supposed to understand, together with general information on how to challenge the decision.

Annex II. Comparative overview of the Dublin III Regulation and the Asylum and Migration Management Regulation

Dublin III Regulation	Asylum and Migration Management Regulation (AMMR)
n/a	**Recital 39** Providing good quality information and legal support on the procedure to be followed to determine the Member State responsible, as well as the rights and obligations of the applicants in that procedure, is in the interests of both Member States and applicants. To increase the effectiveness of the procedure to determine the Member State responsible and ensure the correct application of the responsibility criteria as set out in this Regulation, legal counselling should be introduced as an integral part of the system for determining the Member State responsible. For that purpose, legal counselling should be made available for applicants, upon their request, to provide guidance and assistance on the application of the criteria and mechanisms for determining the Member State responsible.
n/a	**Article 19. Right to information** l) the right to be granted legal counselling free of charge on matters relating to the application of the criteria set out in Chapter II or the clauses set out in Chapter III of this Part at all stages of the procedure for determining the Member State responsible, as set out in Article 21; m) in the event of an appeal or review, the right to be granted, on request, legal assistance free of charge where the person concerned cannot afford the costs involved;
n/a	**Article 21. Right to legal counselling** 1. Applicants shall have the right to consult, in an effective manner, a legal adviser or other counsellor, admitted or permitted as such under national law, on matters relating to the application of the criteria set out in Chapter II or the clauses set out in Chapter III of this Part at all stages of the procedure for determining the Member State responsible provided for in this Regulation. 2. Without prejudice to the applicant's right to choose his or her own legal adviser or other counsellor at his or

Dublin III Regulation	Asylum and Migration Management Regulation (AMMR)
	her own cost, an applicant may request free legal counselling in the procedure for determining the Member State responsible. 3. Free legal counselling shall be provided by legal advisers or other counsellors admitted or permitted under national law to counsel, assist or represent applicants or by non-governmental organisations accredited under national law to provide legal services or representation to applicants. For the purposes of the first subparagraph, effective access to free legal counselling may be assured by entrusting a person with the provision of legal counselling in the administrative stage of the procedure to several applicants at the same time. 4. Member States may organise the provision of legal counselling in accordance with their national systems. 5. Member States shall lay down specific procedural rules concerning the arrangements for filing and processing requests for the provision of free legal counselling as provided for in this Article. 6. For the purposes of the procedure for determining the Member State responsible, the free legal counselling shall include the provision of: a) guidance on and explanations of the criteria and procedures for determining the Member State responsible, including information on rights and obligations during all stages of that procedure; b) guidance on and assistance in providing information that could help determine the Member State responsible in accordance with the criteria set out in Chapter II of this Part; c) guidance and assistance on the template referred to in Article 22(1). 7. Without prejudice to paragraph 1, the provision of free legal counselling in the procedure for determining the Member State responsible may be excluded where the applicant is already assisted and represented by a legal adviser. 8. For the purpose of implementing this Article, Member States may request the assistance of the Asylum Agency. In addition, financial support may be provided through Union funds to the Member States, in accordance with the legal acts applicable to such funding.

Dublin III Regulation	Asylum and Migration Management Regulation (AMMR)
Article 5(6). Personal interview (…) The Member State shall ensure that the applicant and/or the legal advisor or other counsellor who is representing the applicant have timely access to the summary. (**written summary of the interview*)	**Article 22 Personal interview** 5. Where duly justified by the circumstances, Member States may conduct the personal interview by video conference. In such a case, the Member State shall ensure the necessary arrangements for the appropriate facilities, procedural and technical standards, legal assistance and interpretation, taking into account guidance from Asylum Agency. (7. (…) The Member State shall ensure that the applicant or the legal adviser or other counsellor, admitted or permitted as such under national law, who is legally representing the applicant has timely access to the summary, as soon as possible after the interview and in any event before the competent authorities take a decision on the Member State responsible.
Article 26. Notification of a transfer decision 1. (…) If a legal advisor or other counsellor is representing the person concerned, Member States may choose to notify the decision to such legal advisor or counsellor instead of to the person concerned and, where applicable, communicate the decision to the person concerned. 2. Member States shall ensure that information on persons or entities that may provide legal assistance to the person concerned is communicated to the person concerned together with the decision referred to in paragraph 1, when that information has not been already communicated. 3. When the person concerned is not assisted or represented by a legal advisor or other counsellor, Member States shall inform him or her of the main elements of the decision, which shall always include information on the legal remedies available and the time limits applicable for seeking such remedies, in a language that the person concerned understands or is reasonably supposed to understand.	**Article 42. Notification of a transfer decision** 1. Where a legal adviser or other counsellor who is admitted or permitted as such under national law is legally representing the person concerned, Member States may notify the decision referred to in paragraph 1 to such legal adviser or counsellor instead of to the person concerned and, where applicable, communicate the decision to the person concerned. 2. (…) Member States shall ensure that information on persons or entities that are able to provide legal assistance to the person concerned is communicated to the person concerned together with the decision referred to in paragraph 1, unless that information has already been communicated. Where the person concerned is not legally represented by a legal adviser or other counsellor who is admitted or permitted as such under national law, Member States shall provide him or her with information on the main elements of the decision, which shall include information on the legal remedies available and the time limits applicable for seeking such remedies, in a language that the person concerned understands or is reasonably supposed to understand.
Article 27. Remedies 5. Member States shall ensure that the person concerned has access to legal assistance and, where necessary, to linguistic assistance. 6. Member States shall ensure that legal assistance is granted on request free of charge where the person concerned cannot afford the costs involved. Member States may provide that, as regards fees and other costs, the treatment of applicants shall not	**Article 43. Remedies** 4. Member States shall ensure that the person concerned has access to legal assistance and, where necessary, to linguistic assistance. 5. Member States shall ensure that legal assistance and representation in the appeal procedure are granted on request free of charge where the person concerned cannot afford the costs involved. Member States may provide that, as regards fees and other

Dublin III Regulation	Asylum and Migration Management Regulation (AMMR)
be more favourable than the treatment generally accorded to their nationals in matters pertaining to legal assistance. Without arbitrarily restricting access to legal assistance, Member States may provide that free legal assistance and representation not be granted where the appeal or review is considered by the competent authority or a court or tribunal to have no tangible prospect of success. Where a decision not to grant free legal assistance and representation pursuant to this paragraph is taken by an authority other than a court or tribunal, Member States shall provide the right to an effective remedy before a court or tribunal to challenge that decision. In complying with the requirements set out in this paragraph, Member States shall ensure that legal assistance and representation is not arbitrarily restricted and that the applicant's effective access to justice is not hindered. Legal assistance shall include at least the preparation of the required procedural documents and representation before a court or tribunal and may be restricted to legal advisors or counsellors specifically designated by national law to provide assistance and representation. Procedures for access to legal assistance shall be laid down in national law.	costs, the treatment of persons subject to this Regulation shall not be more favourable than the treatment generally accorded to their nationals in matters pertaining to legal assistance and representation. Member States may provide that free legal assistance and representation is not to be granted where the appeal or review is considered by the competent authority or a court or tribunal to have no tangible prospect of success, provided that access to legal assistance and representation is not thereby arbitrarily restricted. Where a decision not to grant free legal assistance and representation pursuant to the second subparagraph is taken by an authority other than a court or tribunal, Member States shall provide for an effective remedy before a court or tribunal to challenge that decision. Where the decision is challenged, the remedy shall be an integral part of the remedy referred to in paragraph 1. Member States shall ensure that legal assistance and representation are not arbitrarily restricted and that effective access to justice for the person concerned is not hindered. Legal assistance shall include at least the preparation of the required procedural documents. Legal representation shall include at least the representation before a court or tribunal and may be restricted to legal advisers or counsellors specifically designated by national law to provide legal assistance and representation. Procedures for access to legal assistance and representation shall be laid down in national law.

Annex III. Organisation of legal aid at first instance determination for the regular procedure

Country	Legal provision	Service provider (state-funded, CSOs)	Conditions for access
Austria	Federal Agency for Care and Reception (BBU)-Establishment Act, Sections 2 and 13	State-funded: Legal counsellors from the Federal Agency for Care and Reception (BBU) Civil society organisations	*Ex officio*
Belgium	Aliens Act Aliens Decree Judicial Code, Article 508/13	State-funded: First-line legal assistance through local commissions for legal assistance (e.g. lawyers from the local bar association and public centres for social welfare) Second-line legal aid through lawyers of legal aid offices of the bar associations Civil society organisations	Upon request Free for first-line legal assistance Means test for second-line legal assistance but asylum applicants are presumed by law to lack resources
Bulgaria	Law on Asylum and Refugees, Article 23 Law on Legal Aid, Article 22(1), Item 8	State-funded: Lawyers appointed by the National Legal Aid Bureau Civil society organisations	Upon request Means test
Croatia	Law on International and Temporary Protection, Article 59(4-6), Article 60 Law on free legal aid, Articles 10-11	State-funded: Primary legal aid Organisations or lawyers subcontracted by the Ministry of the Interior for legal and procedural information and legal counselling[13] Civil society organisations	Upon request Means test
Czechia	Act No 325/1999 Coll. on Asylum, Section 21	State-funded: Law firm selected through tender by the Ministry of the Interior Consortium of organisations subcontracted by the Ministry of the Interior for	No conditions

[13] The Croatian Law Centre is currently implementing the project "Legal Counselling Centre of the Croatian Law Centre – Free Legal assistance", financed from the state budget on the basis of a public tender. Legal assistance services for 2024–2027 are also funded through AMIF for projects implemented by civil society organisations.

Country	Legal provision	Service provider (state-funded, CSOs)	Conditions for access
		specific projects on legal counselling Civil society organisations	
Cyprus	Refugee Law, Article 18(1B, 1C, 7C)	Not state-funded: limited to free legal and procedural information Civil society organisations[14]	Means test to access free procedural and legal information
Denmark	Danish Administration of Justice Act, Chapter 31 Aliens Act Executive Order on Public Legal Aid by Lawyers, Article 5 (1-2)	State-funded: Lawyers under general law rules Civil society organisations	Free for step 1 of public legal aid Means test under general rules for legal aid for steps 2 and 3 of public legal aid
Estonia	Act on Granting International Protection to Aliens, Article 10	Not state-funded Civil society organisations	n/a
Finland	Aliens Act, Section 9 Legal Aid Act	State-funded: Legal assistant appointed by the Legal Aid Office Civil society organisations	Means test
France	Code of Entry and Residence of Foreigners and the Right to Asylum | CESEDA	State-funded: Organisations subcontracted by national authorities[15] for legal counselling and/or legal assistance Civil society organisations	n/a
Germany	Asylum Act, Section 12a Legal Services Act, Article 6 Administrative Procedures Act, Section 14	State-funded: Organisations subcontracted by BAMF for legal and procedural information and legal counselling Independent civil society and welfare organisations	No conditions
Greece	Law No 4939/2022, Article 76	Not state-funded Civil society organisations	n/a
Hungary	Asylum Act, Articles 3(1f) and 37(3) Legal Aid Act, Articles 64(1) and 66	State-funded: Legal assistants from a list provide by the Legal Aid Service Civil society organisations	Upon request No test (applicants are presumed to lack means)
Iceland	Foreign Nationals Act, Article 30 Regulation for Foreigners, Article 42	State-funded: Advocates selected by the Directorate of Immigration from a dedicated list	Upon request No tests

[14] The providers must be legal professionals with a law degree.
[15] Projects on the provision of legal counselling/assistance can be funded by OFII, the Ministry of the Interior or through AMIF. Services vary depending on the type of reception service. See also the EMN Ad Hoc Query 2025.33, Needs assessment for determining the extent of legal advice/counselling for asylum applicants, August 2025.

Country	Legal provision	Service provider (state-funded, CSOs)	Conditions for access
		Civil society organisations can provide legal support and counselling	
Ireland	Civil Legal Aid Act 1995	State-funded: Lawyers from the Legal Aid Board Civil society organisations	Means test
Italy	Asylum Procedure Decree No 25 of 28 January 2008 (Procedure Decree), Articles 10, 10bis and 16 Decree Law 20/2023 Presidential Decree No 115 of 30 May 2002, Articles 119-121	State-funded: Organisations subcontracted by the national authority for legal and procedural information and/or legal counselling[16] Civil society organisations	n/a
Latvia	Asylum Law	Not state-funded Civil society organisations	n/a
Lithuania	Law on State-Guaranteed Legal Aid, Article 1(3) and Law on the Legal Status of Foreigners, Article 71(1)(4)	State-funded: Lawyers appointed by the Reception and Integration Agency under the Ministry of Social Security as of 1 January 2025 Civil society organisations	Upon request Means test
Luxembourg	Asylum Law, Article 17 Law of 7 August 2023 for general rules on legal assistance	State-funded: Lawyers from the Luxembourg Bar Association Civil society organisations can only provide legal guidance and information	Upon request Means and merits test
Malta	International Protection Act, Chapter 420 of the Laws of Malta	Not state-funded Civil society organisations	n/a
Netherlands	Legal Aid Act | Wet op de rechtsbijstand	State-funded: Lawyers from the Legal Aid Board | Raad voor Rechtsbijstand Civil society organisations	No conditions, granted automatically
Norway	Immigration Act, Articles 80, 82, 92, 126 (6) Legal Aid Act, Article 11,16	State-funded: Civil society organisation subcontracted by the Ministry for legal counselling Lawyers of the Bar Association for legal aid Civil society organisations	Free legal counselling throughout the procedure Legal aid upon request Means test (except for unaccompanied minors and applicants to whom exclusion grounds may apply)
Poland	Act of 13 June 2003 on the Protection of Foreigners, Article 69c and d	Not state-funded[17] Civil society organisations	n/a

[16] The Ministry of the Interior launches a tender procedure to contract various services provided in reception centres and at border and in transit zones, including for legal and procedural information and/or legal counselling.
[17] However, the Office for Foreigners maintains a list of legal advisers and attorneys and a list of NGOs that may provide free legal assistance.

Country	Legal provision	Service provider (state-funded, CSOs)	Conditions for access
Portugal	Law on asylum, Articles 17(1) and 49(1e)	State-funded: Public entity or civil society organisation based on a Memorandum of Understanding with the Ministry of Home Affairs and UNHCR[18] Civil society organisations	n/a
Romania	Law No 122/2006 on asylum, Article 17 (e, s, ș) Government Emergency Ordinance 51/2008, Article 6	State-funded: Lawyers from the bar association (registry of lawyers for free legal aid) Civil society organisations	Upon request Means test
Slovakia	Act 480/2002 Coll. on Asylum, Article 4(2)	Not state-funded (except cases referred back after an appeal and re-examined) Civil society organisations	n/a
Slovenia	International Protection Act, Articles 5 and 9	Not state-funded Civil society organisations	n/a
Spain	Asylum Act, Articles 16 and 17 Law on Free Legal Aid, Article 2(e)	State-funded: Duty Lawyers Service of the Spanish Bar Association Civil society organisations	Upon request Means test
Sweden	Aliens Act, Chapter 18, Section 1a	State-funded: Public counsel from the list managed by the Swedish Migration Agency Civil society organisations	No conditions Appointed by the Swedish Migration Agency when deemed necessary
Switzerland	Asylum Act, Articles 22 and 102f-l	State-funded: Civil society organisations selected through a tender procedure Civil society organisations	No conditions

[18]The Portuguese Refugee Council is the main organisation with a cooperation framework with the Foreigners and Borders Service (SEF) since 1998.

Annex IV. Provision of legal aid at the appeals stage for the regular procedure

Country	Service provider for free legal assistance and representation (state-funded, CSOs)[19]	Conditions for access (e.g. means test (financial resources) or merits test (prospects of success of a remedy)	Type of appeal[20]
Austria	State-funded: Legal counsel from the Federal Agency for Care and Reception (BBU) (for first instance appeal level) State-funded: Lawyers from the bar association (onward appeals)	Legal assistance is granted *ex officio* (no tests) before the Federal Administrative Court Means and merits test for appeals before the Supreme Administrative Court and the Constitutional Court	All appeals Mandatory representation by a lawyer before the Supreme Administrative Court and the Constitutional Court
Belgium	State-funded: Second-line legal aid by lawyers from legal aid offices of the bar associations Civil society organisations can provide legal advice, but they cannot represent applicants	Means test for second-line legal assistance provided by law but it is not applied in practice as asylum applicants are presumed to lack resources. Merits test	All appeals Mandatory assistance by a lawyer to lodge a cassation appeal
Bulgaria	State-funded: Lawyers from the National Legal Aid Bureau Civil society organisations can provide legal advice and sometimes representation before courts (for example Bulgarian Helsinki Committee, Centre for Legal Aid)	Means test	All appeals
Croatia	State-funded: Lawyers and attorneys from organisations registered by the Ministry of the Interior	Means test	Only first instance appeal No free legal aid for appeals before the High Administrative Court
Cyprus	State-funded: Legal professionals with a valid license to practice law from the bar association	Merits test No means test	Only first instance appeal before the International Protection Administrative Court (IPAC)

[19] Competent authorities are persons as "admitted or permitted under national law" including all possible titles provided under national law, for example legal advisers, legal counsels and lawyers (see also Recital 23 and Article 21 of the recast APD).
[20] The mapping is intended to show whether state-funded, free legal assistance and representation can be granted for all types of appeals concerning the regular procedure, whether for certain appeals legal representation is mandatory and to identify any other national specificities.

Country	Service provider for free legal assistance and representation (state-funded, CSOs)[19]	Conditions for access (e.g. means test (financial resources) or merits test (prospects of success of a remedy)	Type of appeal[20]
			Not state funded for appeals before the Supreme Court
Czechia	State-funded: Lawyers or attorneys from the Czech Bar Association Civil society organisations specialised in refugee law in first instance appeals	Means and merits test	All appeals Mandatory to be represented by a lawyer before the Supreme Administrative Court
Denmark	State funded: Lawyer appointed by the Danish Refugee Board from a dedicated list Civil society organisations can provide advice	*Ex officio* (no tests)	Only one appeal possible before the Refugee Appeals Board
Estonia	State-funded: Advocates registered with the Estonian Bar Association Civil society organisation (Estonian Human Rights Center)	Means test Merits test	All appeals
Finland	State-funded: Legal assistants from the Legal Aid Office	Means test under the general rules for legal aid but the court may choose not to apply it for decisions under the Aliens Act	All appeals Mandatory legal assistance before the Supreme Administrative Court
France	State funded: lawyers from the Legal Aid Office of the National Court of Asylum State funded: lawyers from the legal aid office of the Council of State	Granted automatically upon request (no tests) Means test for free legal aid before the Council of State	All appeals Mandatory to be assisted by a lawyer before the Council of State
Germany	State-funded: Lawyers or law teachers at a state or state-recognised university of an EU Member State	Means and merits test	All appeals Legal representation is mandatory for appeals before the Higher Administrative Court and the Federal Administrative Court
Greece	State-funded: Lawyers registered in the Register of Attorneys of the Asylum Service for first instance appeal State-funded: Legal advisers of the bar association for second appeal and cassation Civil society organisations registered in the Registry Unit of Non-Governmental Organisations	No conditions for first appeal instance (only presence on the territory) Merits test for second and onward appeals	All appeals Legal representation is mandatory for second and cassation appeals

Country	Service provider for free legal assistance and representation (state-funded, CSOs)[19]	Conditions for access (e.g. means test (financial resources) or merits test (prospects of success of a remedy)	Type of appeal[20]
	of the Ministry of Migration[21] for first and second appeals		
Hungary	State funded: Legal advisers from registry of the Legal Aid Service Civil society organisations can provide legal assistance (Hungarian Helsinki Committee)	No tests	All appeals
Iceland	State-funded: Advocates appointed by the Directorate of Immigration	No tests for first appeal before the Immigration and Asylum Appeals Board Means and merits test for second/onward appeals	All appeals
Ireland	State-funded: Lawyers from the Legal Aid Board Civil society organisation (Irish Refugee Council Independent Law Centre)	Means and merits test	Only for appeals to the International Protection Appeals Tribunal (IPAT) Not state-funded for a judicial review except if private legal assistance cannot be obtained, then the Legal Aid Board will consider the merits of the application for a judicial review
Italy	State-funded: Lawyers from the bar association registered in the list of legal aid Civil society organisations can provide legal assistance but not representation	Means and merits test	All appeals
Latvia	State-funded: Provider selected by the Court Administration, pursuant to Section 21 of the State Ensured Legal Aid Law Civil society organisation can provide free legal counselling	Means test	All appeals
Lithuania	State-funded: Lawyers appointed by the Reception and Integration Agency under the Ministry of Social Security as of 1 January 2025 Civil society organisations can provide legal assistance	Means test	Only for first instance appeals before regional administrative courts No state-funded legal aid for appeals before the Supreme Administrative Court

[21] The conditions to be registered are provided in Article 78 of Law No 4939/2002. Non-governmental organisations can represent applicants before the competent judicial or quasi-judicial bodies only through a qualified lawyer.

Country	Service provider for free legal assistance and representation (state-funded, CSOs)[19]	Conditions for access (e.g. means test (financial resources) or merits test (prospects of success of a remedy)	Type of appeal[20]
Luxembourg	State funded: Lawyers from the Bar Association	Means and merits test	All appeals
Malta	State-funded: Warranted lawyers appointed by the Ministry for Home Affairs, Security and Employment Civil society organisations	Means test is provided by law but usually not applied in practice	Free, state-funded only for the first instance appeal before the International Protection Appeals Tribunal
Netherlands	State-funded: Lawyer assigned by the Legal Aid Board Civil society organisations can provide legal advice	No conditions, presumed to lack financial resources	All appeals
Norway	State-funded: Lawyers on Norwegian Immigration Directorate (UDI's) list Civil society organisations	Means test	All appeals
Poland	State-funded: Legal representatives through agreements between the Head of the Office for Foreigners and the Bar Associations Civil society organisations	Means test	All appeals Mandatory assistance and representation by a lawyer for cassation appeals before the Supreme Administrative Court
Portugal	State-funded: Lawyers from the Portuguese Bar Association	Means and merits test	All appeals
Romania	State-funded: Lawyers of the Romanian Bar Association Civil society organisations	Means test	All appeals
Slovakia	State-funded: Lawyers from the Centre for Legal Aid under the Ministry of Justice	Means test	All appeals
Slovenia	State-funded: Only by refugee counsellors[22]	Means test	All appeals
Spain	State-funded: Lawyer appointed from the Duty Lawyers Service of the Bar Association Civil society organisations can provide legal assistance	Means test	All appeals (*if a lawyer was appointed for the administrative procedure, he/she continues to provide legal aid in appeals) Mandatory to have a lawyer for second and onward appeals and a *procurador*

[22] There are special provisions governing the refugee counsellor as legal aid providers in asylum appeals: Article 9(1) of the International Protection Act and also the Rules on the method of access to refugee counsellors, remuneration and reimbursement of costs to refugee counsellors and criteria for calculating reimbursement of costs from a person with sufficient own resources.

Country	Service provider for free legal assistance and representation (state-funded, CSOs)[19]	Conditions for access (e.g. means test (financial resources) or merits test (prospects of success of a remedy)	Type of appeal[20]
Sweden	State-funded: Public legal counsel appointed from the Migration Agency's registry (same as for the administrative procedure if already appointed) Public counsel appointed by the Court Civil society organisation vetted by the court	Means test	All appeals
Switzerland	State-funded: Lawyers appointed by the court Civil society organisations	Means and merits test	All appeals Cassation appeals before the Federal Supreme Court if the latter considers it necessary to protect the applicant's rights

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