



## Ad-Hoc Query on the LEGAL AID IN THE INTERNATIONAL PROTECTION PROCEDURES

Requested by SI EMN NCP on 28<sup>th</sup> September 2009

Compilation produced on 22<sup>nd</sup> October 2009

Responses from Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom (17 in Total)

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### **1. Background Information**

In Slovenia we are currently preparing the changes of and amendments to the International Protection Act. Due to the fact that during these preparatory efforts certain dilemmas occurred we wish to examine the practice in other Member States in order to find a most suitable solution. It would be very much appreciated if we could receive our answers by **6<sup>th</sup> October 2009**.

In Slovenia, the applicants for international protection have the right to legal aid free of charge in the proceedings before the court instances. The legal aid before the Administrative and Supreme Court is provided by the so called refugee counsellors or attorneys designated by the competent authority based on a public tender under the conditions determined by the law.

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## 2. Responses

		Wider Dissemination? <sup>1</sup>	<ol style="list-style-type: none"> <li>1. Do the applicants for international protection in your country have the right to legal aid free of charge in the first instance proceedings? If they do, who provides such legal aid?</li> <li>2. Can the applicants in your country be represented in the international protection proceedings by the attorneys at the expense of the state (like refugee counsellors in Slovenia)? If they can be, who designates these attorneys and what are the conditions for such a designation, what is the designation procedure, how often is this procedure carried out and how long is the designation period for the counsellor?</li> <li>3. In what way do the applicants for international protection in your country access to refugee counsellors?</li> <li>4. Do refugee counsellors in your country have any training prior to their designation and during their mandate? If this is the case, who provides such training? Are the contents of the training prescribed and who prescribed the contents?</li> </ol>
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.
	Belgium	Yes	<p>Applicants for international protection in Belgium have the right to free legal aid during the whole course of their asylum procedure. Asylum seekers are by law presumed to be insolvent and can thus receive free legal aid. There is legal assistance in the first and second line.</p> <p>The first line assistance is free legal assistance that is provided in each judiciary district by the Office for Judicial Assistance. Lawyers provide a free orientating judicial advise (e.g. do I have to reply to this letter, which service do I have to contact, is it worthwhile to contact a lawyer, etc.). During the asylum procedure asylum seekers are often assisted by lawyers.</p>

<sup>1</sup> A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<p>The second line assistance provides a free access to legal aid by a lawyer in a court case or in an administrative procedure. This assistance is provided by a pro-deo lawyer.</p> <p>The asylum seeker will have to ask for legal assistance at the Office for Judicial Assistance of the judiciary district of his place of residence. The asylum seeker is also free to find a lawyer by himself and convince him/her to take treat the case pro-deo. If this is not the case, the asylum seeker will have pay the costs of the procedure and the wages of the lawyer by himself.</p> <p>A pro deo lawyer is a lawyer specially assigned by a legal firm to follow-up cases that require a certain field of expertise (e.g. immigration law, divorce, etc). The Office for Judicial Assistance will register the available pro-deo lawyers on a list, it will indicate the field(s) of expertise of the lawyers, and it will assign the lawyers to the client during a monthly meeting. In the past only apprentice lawyers could function as a pro-deo lawyer. Since 10 years also more experienced lawyers can register themselves on the list.</p> <p>Apprentice lawyers are obliged to plead a certain number of pro-deo cases during their three year of apprenticeship. But the number of cases exceeds sometimes the number of available apprentice lawyers. In some judiciary districts it is difficult to find a sufficient number of specialised lawyers, mainly because of the system of remuneration (not high enough, not paid in time, and flexible).</p> <p>The lawyer will receive a fixed wage by the Office for Judicial Assistance (i.e. Ministry of Justice), and this at the end of the legal procedure. He will have to fill out a form that indicates a number of points for each performance in the case. Usually it are points according to the type of procedure (e.g. divorce procedure has X-points), and not according to the workload. The value of a point is currently around 23 euros (but it can vary over the years, depending on the overall budget). As a way of example: for an asylum procedure a lawyer currently receives around 375 euros in wages).</p> <p>At university ‘Aliens/Immigration Law’ is taught. Some lawyers choose to have a further specialisation in the matter. Apprentice lawyers can receive the assistance of more experienced lawyers or of the Office for Judicial Assistance.</p>
	<b>Bulgaria</b>	<b>Yes</b>	
	<b>Cyprus</b>	<b>Yes</b>	
	<b>Czech Republic</b>	<b>Yes</b>	1) Yes. The Ministry shall contribute to the payment of costs related to the provision of legal assistance free of

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			<p>charge, to a legal entity or natural person who has entered into a written agreement on the provision of legal assistance with the Ministry. (The applicant has the right to choose another provider of legal assistance, but the costs related to the provision of such legal assistance shall be borne by the applicant.)</p> <p>2) Legal representation of applicants is compulsory only before the Supreme Administrative Court. Thus the legal representation (by an attorney or a warrant) before the regional courts is possible, but on the plaintiff's own expenses. In case that the plaintiff fulfills general conditions of exemption from court taxes, he/she may be appointed an attorney on the expenses of state.</p> <p>3) As there are no "refugee counselors" the attorneys are selected by the court from the list of attorneys-to-appoint. The plaintiff is entitled to choose his own attorney, but to the court is not obliged to respect such a choice.</p> <p>4) Neither the courts nor the ministry train the attorneys who represent asylum applicants. It is up to the attorneys to master the refugee law and other knowledge necessary for legal representation in such cases.</p>
	<b>Denmark</b>	<b>Yes</b>	
	<b>Estonia</b>	<b>Yes</b>	<p>1.-2. In Estonia the <a href="#">Act on Granting International Protection to Aliens</a> § 10 (2) stipulates that an asylum applicant has the right to legal aid guaranteed by the state pursuant to the procedure provided for in the <a href="#">State Legal Aid Act</a>. State legal aid is provided by an advocate and it might be free of charge or partially or fully compensated by the applicant after the proceedings.</p> <p>Alternatively, the applicant can contact a private company for legal aid. If the applicant chooses to use the help of a private company, (s)he will be responsible for covering the costs related to the legal aid and the representative.</p> <p>Also, several NGOs and law students give simpler legal aid for free.</p> <p>3. In Estonia every applicant can choose his/her advocate. The state legal aid provider is appointed by the court, Prosecutor's Office or investigative body. If the applicant has chosen an advocate and the advocate has granted his/her consent to the recipient of state legal aid, then the corresponding advocate shall be appointed to represent the applicant. If the applicant has chosen an advocate who hasn't given his/her consent to represent the applicant, then the court, Prosecutor's Office or investigative body shall appoint an advocate.</p>

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			4. No.
+	Finland	Yes	<p>1. According to Section 9 of the Finnish Aliens Act:</p> <p>(1) Provisions on aliens' right to legal aid are laid down in the Legal Aid Act (257/2002).</p> <p>(2) However, when an administrative matter is being handled, the counsel assigned to an alien may also be a person with legal training other than a public legal aid attorney.</p> <p>(3) When handling a matter referred to in this Act, a court may grant legal aid to an alien without requiring a statement on the financial position of the applicant for legal aid. The counsel's fee is paid out of State funds as provided in the Legal Aid Act.</p> <p>Legal aid is provided by <u>Legal Aid Offices as well as other law firms and attorneys</u> that have listed with the reception centre as providers of legal aid services for asylum seekers.</p> <p>The Finnish Refugee Advice Centre is the most commonly used legal aid provider for asylum applicants. It is a non-governmental organisation founded in 1988 by other Finnish NGOs. The Refugee Advice Centre provides legal aid and advice to asylum seekers, refugees and other foreigners in Finland. The Refugee Advice Centre has four offices in Finland. Legal aid from the Finnish Refugee Advice Centre is free of charge in the first instance proceedings.</p> <p>2. An asylum applicant is allowed to use a counsel or representative at the asylum interview and in the appeal process regarding the decisions on one's application. Basically, everyone should self pay for the legal assistance that they may need. If someone cannot afford the necessary assistance, it may be provided to them partially or fully at the expense of the state.</p> <p>Lawyers employed by Public Legal Aid Offices are called Public Legal Aid Attorneys.  <a href="http://www.oikeus.fi/20621.htm">http://www.oikeus.fi/20621.htm</a></p> <p>The requirements for eligibility for the office of Public Legal Aid Attorney are a Master's degree in law and adequate experience of advocacy or adjudication. Most Public Legal Aid Attorneys hold the title of <i>varatuomari</i>,</p>

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			<p>which means that they have completed a judicial traineeship at a District Court and obtained a judicial qualification. The Public Legal Aid Attorneys are appointed by the Minister of Justice.</p> <p>Public Legal Aid Attorneys are engaged in advocacy before courts of law; they are under the obligation to observe proper advocacy conduct in their activities. In this respect, they are subject to the disciplinary powers of the Finnish Bar Association. More than half the Public Legal Aid Attorneys in Finland are members of the Bar Association. The Public Legal Aid Attorneys are independent of any other actors in the performance of their commissions.</p> <p>Legal aid providers are appointed to permanent state office. Procedure takes place only if the previous officeholder retires, resigns or is on leave. They all work under the Public Aid Office in Finland. Other law firms and attorneys may also be appointed as legal aid providers. This is done on a case-by-case basis. If an asylum applicant wishes to gain legal aid from other than public legal aid providers, one must apply for a permission to use other solicitor than a Public legal Aid Attorney from the Public Legal Aid Office.</p> <p>3. Asylum applicants gain information on legal counselling from the Reception Centres. An applicant may also find a legal aid provider from the private sector –law firms tend to advertise their expertise in the Internet or even in the Reception Centres.</p> <p>4. As for the requirements for eligibility for the office of Public Aid Attorney, see above. Otherwise there is no regular training regarding asylum issues. The ministry of justice provides legal training for attorneys in Finland.</p>
	<b>France</b>	<b>Yes</b>	
	<b>Germany</b>	<b>Yes</b>	<p>1. In Germany, representation by a lawyer is not obligatory in the asylum proceedings before the Federal Office and the first instance of the administrative court; under the law, asylum seekers are only required to be represented by a lawyer in the appeals procedures. However, asylum seekers may seek legal counsel from the moment they file their application; they will have to bear their legal expenses themselves or may apply for state legal aid. In principle, asylum seekers do not automatically have the right to obtain legal counsel free of charge. Free legal counsel can only be granted on an individual basis by an administrative court. Asylum seekers have to disclose their personal and economic situation to prove that they need assistance; in addition, the court summarily examines their chances of success in court proceedings. State legal aid is only granted if there is a sufficient chance of success. If there is a sufficient chance of success only for part of the litigation, state legal</p>

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			<p>aid will only be granted for that part. Moreover, asylum seekers must not appear to be arbitrarily pursuing their rights.</p> <p>2. In principle, lawyers in Germany are appointed by the responsible Ministers of Justice at federal state level. What is required is a degree in law (“first state examination”) and a period of practical training (“second state examination”) with the national legal authorities. Once lawyers have been demonstrably practicing for a certain period (3 years), they can obtain a specialist degree in a certain area of law; in this case, administrative law, which includes refugee law.</p> <p>3. In principle, lawyers who specialise in refugee or asylum law can be found via the general lists of lawyers and can be asked by the asylum seeker to represent them in all asylum-related affairs. Asylum seekers can freely choose their lawyers.</p> <p>4. There is no state training for lawyers who specialise in asylum or refugee law. Lawyers usually gain the necessary experience in practice.</p>
	Greece	Yes	
	Hungary	Yes	<p>1. Do the applicants for international protection in your country have the right to legal aid free of charge in the first instance proceedings? If they do, who provides such legal aid?</p> <p>Yes, they have. According to the Act LXXX of 2007 on Asylum (hereinafter referred to as Asylum Act) the person seeking recognition shall be given the opportunity to use legal aid at his/her own expense or, if in need, free of charge as set forth in the Act on Legal Assistance (see under point b), or to accept the free legal aid of a registered non-governmental organisation engaged in legal protection (see under point a). Furthermore on the basis of the Asylum Act if the person seeking recognition is an unaccompanied minor, the refugee authority shall, without delay, provide for the appointment of a guardian serving to represent the minor during the asylum proceedings (see under point c). The mandate of this guardian is limited to the the procedural rights connected to the asylum proceedings of the unaccompanied minor asylum seeker. (We call it case guardian.)</p> <p>In practice legal aid is provided in the following three ways:</p>

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			<p>a) by the attorneys of the Hungarian Helsinki Committee;  b) by other attorneys under the Act on Legal Assistance;  c) for unaccompanied minors a case guardian is designated by the Guardianship Office of the local authority.</p> <p>2. Can the applicants in your country be represented in the international protection proceedings by the attorneys at the expense of the state (like refugee counsellors in Slovenia)? If they can be, who designates these attorneys and what are the conditions for such a designation, what is the designation procedure, how often is this procedure carried out and how long is the designation period for the counsellor?</p> <p>The Hungarian Helsinki Committee is an NGO and its attorneys are not financed by the state for the legal aid they provide for asylum seekers. These attorneys are not designated by any body, they undertake the cases on voluntary basis.</p> <p>The Act on Legal Assistance provides for free legal aid for asylum seekers. According to this Act the asylum seekers are eligible for the free legal aid solely on the ground them being an asylum seeker. This legal aid is provided by attorneys registered by the Central Office of Justice of the Ministry of Justice and Law Enforcement. This service is financed from the state budget. The procedure starts on the request of the asylum seeker submitted to the Central Office of Justice. On the basis of the request the Central Office of Justice brings a decision containing a list of attorneys the asylum seeker may turn to. Then the asylum seeker gets into contact with the attorney he/she chose from the list. In practice the asylum seekers do not use this opportunity. They prefer the services provided by the Hungarian Helsinki Committee.</p> <p>The case guardian of the unaccompanied minor asylum seekers are designated by the Guardianship Office of the local authority on the request of the refugee authority. This designation is obligatory in every case when the asylum seeker is an unaccompanied minor. (In 2008 159 designations took place.) The designation is valid for the duration of the entire asylum procedure including judicial phase. The requirement for the designation is that case guardian must be a lawyer. The services of the case guardian are financed from state budget. (The fee per hour is determined by law, which is very low and is reimbursed by the refugee authority.)</p> <p>3. In what way do the applicants for international protection in your country access to refugee counsellors?</p>
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			<p>The attorneys of the Hungarian Helsinki Committee can be found in every reception centre and every detention centre (so in every facility run by the state where asylum seekers may be accommodated). They offer their services directly for the asylum seekers at these facilities. The Hungarian Helsinki Committee has also leaflets available at the offices of the refugee authority.</p> <p>The asylum seekers receive information about the free legal aid possibilities under the Act on Legal Assistance in writing among the other information provided for asylum seekers in the beginning of the asylum procedure.</p> <p>The case guardians are provided automatically, ex officio by the competent authorities for unaccompanied minors.</p> <p>4. Do refugee counsellors in your country have any training prior to their designation and during their mandate? If this is the case, who provides such training? Are the contents of the training prescribed and who prescribed the contents?</p> <p>The attorneys of the Hungarian Helsinki Committee receive trainings from the Hungarian Helsinki Committee (it determines the content of the training and organizes the training). They also have regular meetings to discuss the cases among themselves. This organization and its attorneys have great experience and knowledge in asylum cases.</p> <p>For the other attorneys it is not a condition for designation to be trained in the field of asylum, as they are lawyers, they have general knowledge on law. These lawyers do not receive trainings on asylum.</p>
	Ireland	Yes	
	Italy	Yes	
	Latvia	Yes	<p>1. No. In compliance with Asylum Law and Law of the State Guaranteed Legal Aid, state paid legal aid to the asylum seeker provided only in appeal procedure. (Asylum seeker in the first instance proceedings can hire legal aid provider itself or can take advantage of the support giving by nongovernmental organisations).</p> <p>2. Asylum seeker after receipt of negative decision turns in the Division of Asylum Affairs (the Office of Citizenship and Migration Affairs) with demand to grant legal aid in appeal procedure. The Division of Asylum Affairs informs about this demand the Administration of Legal Aid (underfoot Ministry of Justice), which immediately assigns a legal aid provider to asylum seeker. (In 95% of cases asked for State paid legal aid to</p>

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			<p>appeal procedure). Legal aid are provided to process a procedural documents and for representation in court. State pays legal aid in such amount:</p> <ol style="list-style-type: none"> <li>a. consultation - no more than 5 hours within the frameworks of one case;</li> <li>b. process of documents - no more than 5 document's composition within the frameworks of one case;</li> <li>c. representation in court - no more than 40 hours within the frameworks of one case.</li> </ol> <p>3. (See the answer to second question). After the designation of legal counsellor follows a meeting with asylum seeker in presence.</p> <p>4. Training of legal aid providers provides the Ministry of Justice.</p>
	<p><b>Lithuania</b></p>	<p><b>Yes</b></p>	<p>1. Yes. The Migration department under the Ministry of the Interior, which examines applications for asylum, concludes contracts with lawyers' bureaus (solicitors or barristers for the counselling during the asylum procedure, and barristers (advocates) for the appeal procedure). The lawyers are paid by the State (through the Migration department) per hour of their services.</p> <p>2. Yes. The Ministry of the Interior launches one public tender, where all interested attorneys or lawyers, who meet the indicated requirements, can participate. The main requirement for the participation in the public tender is necessary qualifications (legal background (for the appeal procedure – the attorney's certificate), knowledge in the asylum procedures). The winners of the public tender sign a legal service contract with the Migration department where they commit to provide the necessary legal assistance – whether during the asylum procedure, or in courts – as soon as an asylum seeker declares that s/he needs it. The contract is usually signed for a period of 3 years, afterwards a new public tender is launched. The conditions of the new public tender can be slightly revised, bearing in mind the actual situation in the state/administration/asylum procedures at that moment.</p> <p>3. As soon as the asylum applicants lodge their application, they are informed about their right to legal assistance. Having received the information that the asylum applicant has asked for the legal assistance, the Migration department contacts the lawyers (who have signed the legal service contract) and informs them about the need for the legal assistance.</p> <p>4. There are trainings carried out for the lawyers. In November 2009 the lawyers who have signed the legal service contract participated at the trainings in asylum law, which were carried out by the UCHR representative for the Baltic and Nordic region.</p>

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	<b>Luxembourg</b>	<b>Yes</b>	<p>(1) The international protection applicant, has the right to attend free of charge an interpreter and the right to chose or to appoint a lawyer from the court of law societies established in the Grand-Duchy of Luxembourg. (Art. 7 and others in Memorial A-No. 78 - Loi du 5 mai 2006 relative au droit d'asile et a des formes complémentaires de protection)</p> <p>(2) The international protection applicant once he/she arrives in Luxembourg and asks for international protection, is immediately informed in his/her own language or a language that he/she understands of his/her rights such as accommodation, social care and others. The lawyer/attorney who has been appointed to the applicant will represent him/her in the international protection proceedings at the expense of the state. The conditions for the lawyer/attorney designation procedure are just that he/she should be appointed from the court of law societies established in the Grand-Duchy of Luxembourg. (Art. 7 and others in Memorial A-No. 78 - Loi du 5 mai 2006 relative au droit d'asile et a des formes complémentaires de protection).</p> <p>(3) In Luxembourg the system which gives access to have a Lawyer free of charge is the “Judiciary Assistance” (in Memorial A-No 81 18 août 1995 Assistance Judiciaire).</p> <p>(4) There are no specific trainings provided to refugee counsellors in Luxembourg.</p>
	<b>Malta</b>	<b>Yes</b>	
	<b>Netherlands</b>	<b>Yes</b>	<p>1. Yes. Asylum seekers have the right to legal aid free of charge unless an applicant has enough income to be obliged to pay a fee. The Legal Aid Board (subsidised by the Ministry of Justice) provides the legal aid. The Legal Aid Board checks the income of the applicant. However, most applicants do not have enough money to be obliged to pay a fee.</p> <p>2. Yes. As mentioned above, legal aid is provided by the Legal Aid Board at the expense of the Ministry of Justice. Refugee counsellors that are registered at the Legal Aid Board, are designated to applicants by the Legal Aid Board. Refugee counsellors that are registered at the Legal Aid Board have to meet certain requirements (experience, skills, organisation of the office) .</p> <p>3. Each asylum application had to be done in an application centre where the applicant will be designated a counsellor by the Legal Aid Board.</p> <p>4. No. As mentioned above, to register at the Legal Aid Board refugee counsellors have to meet certain (asylum) requirements.</p>

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	<b>Poland</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. In Poland the asylum seekers do not enjoy this right. We haven't implemented art. 15 and 16 of so called "procedure directive" yet. At the moment legal aid free of charge is provided mainly by NGOs (both at the first and the second instance).</li> <li>2. See p. 1.</li> <li>3. Due to art. 29.1.6.d of Act on granting protection to foreigners within territory of the Republic of Poland the authority admitting the application (Border Guard) shall inform the asylum seeker in a language understandable for him/her about organisations to which statutorily deal with refugees-related matters.</li> <li>4. N/a</li> </ol>
	<b>Portugal</b>	<b>Yes</b>	<p>The modalities of access to legal aid for the applicants for international protection are governed by the legislation related to the access to justice.</p> <p>The request of legal aid for the applicants for international protection in Portugal is generally made in cooperation with a non-governmental organization to the Institute of Social Security, which in case of acceptance goes to the Portuguese Counsellors Order, whom will nominate a counsellor for the applicant. This procedure takes about 30 days.</p>
	<b>Romania</b>	<b>Yes</b>	
	<b>Slovak Republic</b>	<b>Yes</b>	<p>The asylum procedure in SR is performed by the Migration Office of the Ministry of Interior of the Slovak Republic.</p> <p>The Act on Asylum (No 480/2002 Coll) in the Slovak Republic gives the asylum seeker the right to be represented <b>all along the asylum procedure</b>. The asylum seeker may be represented by an attorney or another representative of his/her choice, while there can be only one selected representative in the same case. The representatives can only be a natural person with the full capacity for legal acts or the Legal Aid Center. The representative must prove his/her authorization with a written power of attorney.</p> <p><u>A selected attorney at law</u></p> <p>If the asylum seeker chooses his own advocate (attorney at law), <b>the asylum seeker honors the advocate</b> with the remuneration arranged by two parties. In general, the role of the advocate is: "to represent clients before courts, public authorities and other legal entities, advocacy in criminal proceedings, providing legal advice, writing letters on legal acts, legal analysis, processing, asset management and other forms of legal advice and legal assistance, if carried out consistently and for a remuneration." (Article No 1 paragraph 2 of Act on Advocacy No 586/2003 Coll.). Attorney in the asylum procedure represents the asylum seeker, advises, submits comments, makes documents inspection and lodges an appeal act. Lawyer's remuneration is determined by agreement between the</p>

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		<p>lawyer and his client (“contractual remuneration”), if no agreement is reached the tariff remuneration is applied.</p> <p><u>Legal assistant provided by the NGOs taking care of asylum seekers</u></p> <p>Legal aid is provided through the implementation of projects realized by the NGOs and co-financed by the European Refugee Fund (ERF). Project funding is provided by the ERF and the national co-funding in the proportion 75% : 25%. Private financing is not used. It’s a responsible authority (the Ministry of Interior) that approves the NGO’s request for a grant.</p> <p>The NGOs offer the legal aid, <b>free of charge</b>, upon a grant contract – from the beginning of asylum procedure. Following the terms of the contract, the NGOs guarantee a permanent presence of legal adviser in each reception centre or accommodation centre. Asylum seekers are given information on their status, rights, obligations and opportunities for solutions of their legal status immediately after arrival in centres. With the creation of a permanent legal adviser, the most of asylum seekers have been given qualified information on their legal status from the first day of their arrival to the reception centre. The organizations may engage advocate as a subcontractor for legal assistance, which allows greater variability in legal aid, especially in legal representation before the courts.</p> <p>2. Yes – by the Legal Aid Center</p> <p>The Legal Aid Center (Center) was established following the “Law on Providing Legal Assistance to the Persons in Material Need” No 327/2005 Coll. The law came into force on 1 January 2009 and gives all the natural persons the right to be assisted in asylum issues. The Center provides the legal aid via its own employees or intended attorneys. The Legal Aid Centers decides the form of legal assistance (whether it will be provided by the Center or attorney). The Center can provide free legal assistance only after the decision of the Migration Office of the Ministry of Interior.</p> <p>The applicant for legal aid gives in the application for legal aid in asylum issues at the Center or at the Migration Office of the Ministry of Interior during the interview in the asylum procedure.</p> <p>A foreigner has the right to legal aid in asylum issue only if:</p> <p>A/ he/she asked for legal aid in asylum issue,          B / he/she has no representative to the proceeding,          C / the Migration Office has issued a pending asylum decision not to grant asylum, a decision to withdraw asylum, a decision to refuse renewal of subsidiary protection and to revoke subsidiary protection, a decision rejecting an</p>
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			<p>application for granting asylum as inadmissible or as manifestly unfounded and a decision to stop the asylum procedure for res iudicata.</p> <p>The other decision than stated here above does not found the right to be assisted by the Center.</p> <p>If the asylum seeker satisfies the statutory requirements for (free) legal aid, the legal services cannot be refused.</p> <p>If the asylum seeker is represented by a lawyer - an employee of the Center, s/he works for a fixed monthly salary. The Center as a state budget organization established by the Ministry of Justice shall cover costs of legal representation.</p> <p>Up to now the Center have provided the asylum seekers with legal assistance via its own lawyers – employees of the Center.</p> <p>3. Following article No 4 paragraph 2 of the Act on Asylum (No 480/2002 Coll.) the asylum seeker is advised of the possibility of legal assistance within at least 15 days from the beginning of asylum procedure. Prior to filling in the questionnaire (the filling in the questionnaire is the entering interview which initiates the asylum procedure), but at the latest within 15 days after commencement of the procedure, the authorized employee of the Migration Office shall instruct the asylum seeker of his/her rights and obligations during the asylum procedure, of possible consequences of not fulfilling or violating his/her obligations under this Act, of the possibility of being represented in the procedure under this Act and of access to a legal aid. The Migration Office shall also provide the asylum seeker with information about non-governmental organizations focusing on the care of asylum seekers and persons granted asylum; if possible, the instruction and information shall be provided in writing and in the language which is supposed to be understood by the asylum seeker.“</p> <p>4. Refugee counsellors from NGO’s were trained by UNHCR.</p>
	<p><b>Slovenia</b></p>	<p><b>Yes</b></p>	<ol style="list-style-type: none"> <li>1. In Slovenia the applicants do not enjoy this right. However, at the first instance, they have the possibility of legal counselling provided by the NGOs which is not explicitly indicated in the law.</li> <li>2. In Slovenia the refugee counsellors are designated by the Ministry of the Interior which is the competent authority for the international protection proceedings. The procedure is carried out on the basis of a public tender. The person who meets the following requirements may be appointed refugee counsellor: <ul style="list-style-type: none"> <li>- he/she is a citizen of the Republic of Slovenia;</li> <li>- he/she is contractually competent and generally in good health;</li> </ul> </li> </ol>

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			<ul style="list-style-type: none"> <li>- he/she passed the state examination;</li> <li>- he/she has an active command of the Slovene language;</li> <li>- he/she is a trustworthy person to perform the tasks of a refugee counsellor;</li> <li>- he/she has no criminal record and is not subject to criminal proceedings for a criminal offence prosecuted <i>ex officio</i> and punishable by six months imprisonment or more.</li> </ul> <p>At the moment the law does not prescribe how often should a public tender be implemented, neither it defines the duration of the refugee counsellor's mandate.</p> <p>3. In Slovenia every applicant can choose his/her own refugee counsellor. Since certain counsellors monopolise their position to the detriment of the applicants we consider the possibility to designate the refugee counsellors based on their alphabetical order.</p> <p>4. In Slovenia refugee counsellors have no such training.</p>
	<b>Spain</b>	<b>Yes</b>	
	<b>Sweden</b>	<b>Yes</b>	<p>1. Yes, if considered needed the applicants are provided with legal counselling by the Swedish Migration Board.</p> <p>2. The refugee counsellors are designated by the Swedish Migration Board on a case by case basis. The requirement to be appointed is that the person is considered to be competent. The duration of the mandate is to the end of the case, when the decision becomes legally binding.</p> <p>3. Every applicant can choose his/hers own counsellor. If the applicant does not specifically choose the counsellor will be chosen by the Migration Board.</p> <p>4. Some NGOs gives such training but it is not mandatory to be appointed as a counsellor.</p>
	<b>United Kingdom</b>	<b>Yes</b>	<p>1. Yes applicants do have a right to seek free legal services, but whether they receive such services will depend on a number of factors including the funds available to the applicant and the availability of money provided to the sources of legal advice to provide free legal services to migrants seeking international protection. There are three types of source of legal advice:</p>

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			<p>I) Professional legally qualified law firms (will include solicitors and access to barristers if required), ii) Government funded organisations such as Immigration Advisory Service who provide advice free of charge and iii) Immigration Advisers who provide immigration advice or services, they can be either business charging money or organisations providing advice and service on a not for profit basis.</p> <p>All three sources have scope to offer services free of charge, but any migrant seeking such free services will not have an automatic access to such services and may not have access to such services throughout out all of the asylum process. The system provides in the following way:-</p> <p>i) Applicants who wish to receive free legal advice can approach law firms to see if they can obtain services on a "legal aid" basis. Lawyers who provide services on a legal aid basis are paid a fee by the government for the work they do. There are though limited funds for this so not all cases will can be accepted on a legal aid basis, factors taken into consideration will include whether the applicant is in a position to pay for service (a means test), and whether there is at least a 50% chance of success in the case ( a merits test).</p> <p>ii) Government funded organisations will provide advice and services free of charge, but there will also be restrictions on the numbers of cases any organisation can handle, so applicants may have to wait for help or be denied access if their case is considered to have no merit.</p> <p>iii) Not for profit immigration advisers will provide advice and services free of charge or for a small fee, but again there will be restrictions imposed due to availability of funds for these type of cases at any given time. Some advisers may not be qualified to take on the full range of work, e.g. may not be able to deal with appeals related work.</p> <p><b>2.</b> Attorneys are paid for by the state either in the form of legal aided solicitors and barristers or counsellors provided though government funded organisations,as per groups (i) and (ii). Although the government provides funding in these instances the government does not designate individual advisers/counsellors, it is the responsibility of the organisation funded by the government to provide them. Government funding can provide advisers/counsellors for the whole process, including appeals and removal action, it is not the case that every migrant will receive free legal help at every stage of the process. Availability of assistance at some or all of the process will depend on funding and of the merits of the case.</p> <p><b>3.</b> Applicants for international protection can seek assistance from refugee counsellors in one of the 3 categories listed i) - iii) above, either on a fee paying basis or a free from charge basis. Persons seeking international protection are given information about the sources of advice when they apply for asylum. There are many firms of lawyers, counsellors and advisers available to provide advice throughout the United Kingdom but not all will provide such advice free of charge.</p>
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			<p>4. The United Kingdom regulates the provision of immigration advice and services through the Immigration and Asylum Act 1999. Persons providing immigration advice and services must be competent to do so and qualified to do so. The organisations are responsible for their own training and standards, and for setting the qualifications required to provide assistance to migrants. The standards will have to ensure that those carrying out the work are able to do so and meet the requirements of the 1999 Act. The complaints system is a way to review standards and the effectiveness of the system. The Legal Services Commission is responsible for dealing with complaints about lawyers providing a service on a legal aid basis (i) above. The government funded organisations (ii) above have their own complaints scheme, and immigration advisers (iii) above are regulated by the Office of the Immigration Services Commissioner (OISC) who have a complaints procedure. The 1999 Act established the Immigration Services Commissioner as the person with oversight of all those providing immigration advice and services. Anyone dissatisfied with the service they have received can complain to the Commissioner in addition or instead of making a complaint to the organisation concerned.</p>
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