

Legal assistance and representation - Austria

Overview

Relevant EU legislation

Austria is bound by the recast Asylum Procedures Directive, the recast Reception Conditions Directive and the Dublin III Regulation and has transposed their provisions through the Asylum Act | [AsylG: Bundesgesetz über die Gewährung von Asyl, StF: BGBl. I Nr. 100/2005](#), the Aliens Law Amendment Act | [Fremdenrechtsänderungsgesetz: Bundesgesetz, mit dem das BFA-Einrichtungsgesetz, das BFA-Verfahrensgesetz, das Asylgesetz 2005, das Fremdenpolizeigesetz 2005, das Niederlassungs- und Aufenthaltsgesetz und das Grundversorgungsgesetz](#) and the Aliens Police Act | [Fremdenpolizeigesetz: Bundesgesetz über die Ausübung der Fremdenpolizei, die Ausstellung von Dokumenten für Fremde und die Erteilung von Einreisetiteln, StF: BGBl. I Nr. 100/2005](#).

National legislation

The most relevant legal provisions for legal aid and representation in the asylum procedure are:

- Sections 10 and Section 29(4) of the [Asylum Act 2005](#).
- Section 10 of the General Administrative Procedure Act | [Allgemeines Verwaltungsverfahrensgesetz](#) | AVG.
- Sections 2, 13 of the BBU-Establishment Act | [BBU-Errichtungsgesetz](#) | BBU-G
- Sections 10, 19, 49 of the BFA-Procedures Act | [BFA-Verfahrensgesetz](#) | BFA-VG.
- Sections 63 ff. of the Code of Civil Procedure ([Zivilprozessordnung](#), ZPO)
- [Constitutional Court Act](#) (VfGG).

These provisions transpose Articles 19, 21, 24 of the Asylum Procedures Directive | [Asylverfahrensrichtlinie](#) | APD.

Competent authority and stakeholders

Area	National authority/stakeholder
Provision of legal and procedural information on the applicant's rights and obligations	Free legal assistance and representation is provided in the asylum procedure in Austria. Section § 52 of the Federal Office for Immigration and Asylum Procedures Act (BFA-VG) provides that an asylum applicant in proceedings before the Federal Administrative Court (first appeal instance) shall be provided with a legal advisor free of charge
Legal assistance at first instance determination	Federal Agency For Reception and Support Services BBU Since 1 January 2021, the Federal Agency For Reception and Support Services BBU is in charge of providing legal advice and legal representation at the Federal Office for Immigration and Asylum (BFA) pursuant to Sec. 49 of the BFA-VG Federal Law Gazette I No. 87/2012 and before the Federal Administrative Court (BVwG) pursuant to Sec. 52 BFA-VG as amended by Federal Law Gazette I no. 87/2012.
Legal counselling provided by civil society organisations or other organisations	The legal assistance provided by BBU does not exclude provision of legal aid by civil society organisations.
Legal assistance at second instance determination	Federal Agency For Reception and Support Services BBU
Legal assistance for other related procedures	Federal Agency For Reception and Support Services BBU

Access to legal assistance and representation

Provision of information on legal assistance and representation

In Austria, information on the possibility to access legal assistance and representation as well as service providers is publicly available online in German and English and accessible at all stages of the procedure. The government provides information on legal assistance and representation on its

website, where it also refers to the website of the BBU and lists other legal aid service providers in Austria. Furthermore, the BBU provides information on how to access legal assistance on their website. Also different NGOs/welfare organisations and UNHCR provide information on the possibility to access legal assistance and refer to available service providers.

Furthermore, the BFA provides leaflets containing information on rights and obligations in the asylum procedure. The leaflet informs of the possibility to get legal assistance, including through NGOs or by private lawyers on the applicant's own costs.

Every decision of the Federal Office of Immigration and Asylum will be accompanied by information on legal remedies, written in a language understood by the foreigner or in a language that the foreigner can reasonably be expected to understand (Section 12 of the [BFA-Procedures Act](#)). The information on legal remedies must state whether an appeal can be lodged against the decision, if so, what the content and form of this appeal must be and to which authority and within what period it must be lodged.

Legal advisors from the BBU are provided ex officio for certain decisions. If there is a right to legal advice in the admission procedure, the applicant will be referred to the legal counsellor before the hearing before the BFA takes place.

Communication with legal aid service providers is allowed throughout the whole procedure.

The applicant has the possibility at any times to consult with UNHCR (Section 63(1) of the [Asylum Act 2005](#)). Pursuant to Section 63(3) of the [Asylum Act 2005](#) UNHCR is authorised in asylum and return proceedings to request information, to inspect files (Section 17 of the [General Administrative Procedure Act](#)), to be represented at interviews, interrogations and oral hearings and to contact the applicants at any time.

Access to premises

Applicants in detention have access to legal aid. The detainee has the right to call a lawyer, who can visit their clients during working hours in a special visitor room. UNHCR representatives have access without restrictions.

NGOs representatives need prior authorisation to act as detainees legal representatives, during office hours. ([EUAA Factsheet Dublin transfers](#)).

Applicants who received a negative decision in the admissibility procedure have access to and may be visited by the appointed legal adviser, if in detention, to assist with the appeal against the

rejection of the asylum application ([EUAA Factsheet Dublin transfers](#))

Requirements: Means test and merits test

There is the possibility to apply for legal aid for proceedings at the Federal Administrative Court. Legal aid is the temporary exemption from any costs incurred in the proceedings (e.g. court fees, fees for witnesses, experts and interpreters, costs for representation by a lawyer).

The Federal Administrative Court can [grant legal aid](#) to:

- persons who cannot cover the costs of conducting the proceedings without prejudice to their necessary maintenance,
- legal persons who cannot raise the necessary funds for the proceedings by the party
- cases where the intended prosecution or defence does not appear to be obviously frivolous or futile.

For [legal aid for submissions before the Constitutional Court](#), a means test applies as provided under Section 20 (2) of the of the [Constitutional Court Act](#)

Modalities to submit a request for legal aid

For appeals before the Federal Administrative Court, the [application](#) for legal aid may be submitted as of the date of issuance of the decision or as of the date on which the person concerned became aware of the exercise of direct administrative command and coercive power.

If the granting of legal aid for drafting and submitting a default complaint is applied for, this application can only be submitted after the expiry of the decision period. Following the submission of a default complaint, the application for legal aid can also be submitted by other parties.

The judge in charge to assess the circumstances and decides if legal aid shall be granted and to what extent

Application for the granting of legal aid must be submitted in writing with an application form.

If the application for legal aid is to precede submission of the complaint to the Federal Administrative Court, it must be submitted to the authority that issued the decision but in case the applications is after submission of the complaint, the application must be submitted to the Federal Administrative Court.

For submissions before the Constitutional Court, legal aid may be granted pursuant to section 35 of the Constitutional Court Act ([Verfassungsgerichtshofgesetz](#), VfGG) in conjunction with sections 63 ff. of the Code of Civil Procedure ([Zivilprozessordnung](#), ZPO). The [website of the Constitutional Court](#) provides details for submission of the application form for legal aid and possible outcomes.

Outcome of the request for legal aid

Federal Administrative Court and Supreme Administrative Court

If the administrative court announces its judgment orally, the concerned party's request for legal aid shall be admissible only if and after said party has timely requested a written copy of the ruling (Austria, [Verwaltungsgerichtshofgesetz](#), Section 61(1a)).

If the administrative court has decided that the appeal is admissible, it shall decide on the request for legal aid by order. The administrative court shall not conduct a merits test in order to make its decision (Austria, [Verwaltungsgerichtshofgesetz](#), Section 61(2), also [Zivilprozessordnung](#), Section 63(1)).

If the administrative court has declared the appeal inadmissible, the Supreme Administrative Court shall decide on the request for legal aid based on a merits test. In such cases, the application for legal aid should be submitted when filing the extraordinary appeal, within the same deadline ([Verwaltungsgerichtshofgesetz](#), Section 61(3) and Supreme Administrative Court (VwGH), [Verfahrenshilfe](#)).

The jurisdiction granting legal aid shall inform the competent Bar Association based on the beneficiary's habitual residence for a lawyer to be appointed. The wishes of the beneficiary of legal aid on the choice of lawyer should be respected to the best extent possible ([Verwaltungsgerichtshofgesetz](#), Section 61(5)).

If the Bar Association appoints a lawyer who is different from the previously-appointed representative, it must inform the VwGH without delay ([Verwaltungsgerichtshofgesetz](#), Section 61(6)).

This may happen if the lawyer cannot continue representation due to a conflict of interests, ([Rechtsanwaltsordnung](#), Section 10(1)) partiality, loss of right to practice or death; another representative shall then be appointed *ex officio* ([Rechtsanwaltsordnung](#), Section 45(4)).

If the Constitutional Court has granted legal aid to a party before assigning the case to the VwGH, the party shall also receive legal aid before the VwGH ([Verwaltungsgerichtshofgesetz](#), Section 61(7)).

Legal assistance and representation at first instance determination

Service provider

Free legal assistance and representation is provided in the asylum procedure in Austria. Since 1 January 2021, the [Federal Agency for Reception and Support Services](#) (*Bundesagentur für Betreuungs- und Unterstützungsleistungen*, BBU), which is an entity under the Austrian federal government, is responsible for providing legal assistance to asylum applicants. Until the end of 2020, the mandatory access to free legal aid was provided by external service providers.

In December 2022, the [Austrian Constitutional Court](#) (*Verfassungsgerichtshof*, VfGH) decided to review *ex officio* the constitutionality of several provisions of the [BBU-Establishment Act](#) and the [BFA-Procedures Act](#). By judgement Applicants v Federal agency for care and support services ([Bundesagentur für Betreuungs- und Unterstützungsleistungen, BBU GmbH](#)), No G 328/2022, 14 December 2023, the Austrian Constitutional Court ruled that the independence of the BBU is not sufficiently guaranteed by law, which violates the right to an effective legal remedy pursuant to Article 47 of the [EU Charter](#). At the same, the Constitutional Court ruled that the legal form of the BBU (Ltd.) itself is constitutional. As consequence of the judgement, the legislator has until 1 July 2025 to enact new legislation. Until then, the decision has no direct impact on the mandate and activities of BBU.

The legal assistance provided by BBU does not exclude provision of legal aid by civil society organisations.

For adult applicants in first instance procedure: open legal counselling is provided at all Regional Offices. Thus, the applicant can ask for legal guidance if necessary during office hours. There is no legal claim for this ([EUAA Factsheet Dublin transfers](#)).

Scope of legal assistance

[BBU GmbH](#) is providing legal advice and legal representation at the Federal Office for Immigration and Asylum (BFA) pursuant to Sec. 49 of the BFA-VG Federal Law Gazette I No. 87/2012 and before the Federal Administrative Court (BVwG) pursuant to Sec. 52 BFA-VG as amended by Federal Law Gazette I no. 87/2012.

BBU GmbH offers legal advice and legal representation in the following proceedings:

- application for international protection (recognition and withdrawal procedures)
- measures terminating the stay (decision to return, ban on entry, expulsion and ban on residence)
- detention pending deportation.

Procedural aspects

Information currently not available.

Representation

In the asylum procedure (after the assessment of the admissibility), there is generally no automatic right to legal assistance (Section 49(1) sentence 3 of the [BFA-Procedures Act](#)). However, subject to financial possibilities, free legal assistance can be provided for applicants in the asylum procedure. This includes assistance in obtaining an interpreter and counselling on the prospects of the asylum procedure. If no legal counselling is provided, the applicant must be provided with legal and procedural information free of charge upon request (Section 49(1) of the [BFA-Procedures Act](#)).

If a right to legal assistance exists, legal counsellors are provided ex officio by the BBU ([oesterreich.gv.at, Rechtsberatung](https://oesterreich.gv.at/Rechtsberatung) | Legal assistance).

In principle, consultations without the need for an appointment are also available during the open consultations held at the BBU offices. However, an appointment is required for a counselling interview to discuss the BFA decision.

The goal of the advice is to objectively and sufficiently inform the client about utilisation of the advisory services so that they can make an independent decision about how to proceed. More information on the BBU website [here](#)

The Federal Agency for Reception and Support Services BBU is in charge to [provide interpreters and translators](#) during the asylum procedure. The BBU GmbH interpreters support both the legal and repatriation counsellors at BBU GmbH in their activities. They enjoy both substantive and personal independence.

Unless otherwise provided for by law, pursuant to Section 21 of the [General Administrative Procedure Act](#) in conjunction with Section 9(1) of the [Service of Documents Act](#), the parties may authorize other natural or legal persons to receive documents from the authorities through a power

of attorney for service (*Zustellungsvollmacht*). According to Section 13(1), (4) of the [Service of Documents Act](#) documents shall generally be handed over to the addressee, unless otherwise ordered. If the addressee is represented by a professional lawyer, the document shall be served at their office and may be handed over to any employee of the representative present there (Section 13(4) of the [Service of Documents Act](#)).

Summons in the admission procedure is served to the applicant in person. If the applicant has been referred to the legal counsellor of the BBU pursuant to Section 29(4) of the [Asylum Act 2005](#) or if he/she is minor and has a representative pursuant to Section 10 of the of the [BFA-Procedures Act](#) , the representative or legal counsel is notified instead (Section 11(2) of the of the [BFA-Procedures Act](#)).

For the interview report, the case officer hands over a copy of the approved written record to the applicant and his/her legal representative or counsel after the interview. The UNHCR representative also has access to the report (Source: IDS Personal interview page; Section 14(3) of the [General Administrative Procedure Act](#)).

Aspects related to special procedures

Applicants who received a negative decision in the admissibility procedure have access to and may be visited by the appointed legal adviser, if in detention, to assist with the appeal against the rejection of the asylum application ([EUAA Factsheet Dublin transfers](#))

In the admissibility procedure, applicants have a legal right to legal advice if they are notified of an inadmissibility decision and the applicant wishes to conduct a hearing before the BFA within 72 hours from the moment of notification in order to ensure the right to be heard. If the applicant has made use of this legal counselling, the legal counsellor must be present at the interview (Section 49(1) sentence 3 of the [BFA-Procedures Act](#) in conjunction with Section 29(4) of the [Asylum Act 2005](#)).

Aspects related to applicants with special needs

The BFA appoints a legal representative for unaccompanied minors (UAM) as soon as they apply for international protection. UAMs are provided with free legal representation and counselling at all stages of the procedure. ([EUAA Factsheet on Dublin transfers](#))

Since January 2021, the [Federal Agency For Reception and Support Services BBU](#) is in charge for the legal representation of unaccompanied children. Legal representatives have to be present at

interviews organised. Once the unaccompanied minors have been admitted to the regular procedure, the Child and Youth Service (*KJH Kinder- und Jugendhilfe*) takes over the legal representation, in accordance with the Asylum Act or by court decision.

Also, UAMs have a right to legal assistance in the admission procedure. The legal counsellor is also the legal representative of the minor until the end of the admission procedure (Section 49(3) of the [BFA-Procedures Act](#)).

The civil society organisation Queer Base has an agreement with BBU, and they provide training on LGBTI in the asylum procedure for legal counsels at the BBU.

According to the [report](#) of the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) on Austria, issued on 11 March 2025, it is recommended to establish a procedure for identification of victims of human trafficking, and to ensure access to legal assistance and representation for all asylum seekers at all stages of the asylum procedure.

The Constitutional Court ruled in the case [Applicant represented by the Federal Agency for Federal Care and Support \(BBU\)](#), (E 345/2024-7, 1 March 2024), on the responsibility of the Federal Agency for Reception and Support Services (BBU GmbH) to legally represent unaccompanied minors during the asylum procedure, including before the Constitutional Court.

Legal assistance and representation in appeals

Service provider

Upon information by the jurisdiction granting legal aid, the competent Bar Association based on the beneficiary's habitual residence for a lawyer to be appointed. The wishes of the beneficiary of legal aid on the choice of lawyer should be respected to the best extent possible, pursuant to Section 61(5) of the Administrative Court Act 1985 | [Verwaltungsgerichtshofgesetz](#)). If the Constitutional Court has granted legal aid to a party before assigning the case to the VwGH, the party shall also receive legal aid before the Federal Administrative Court | [Verwaltungsgerichtshofgesetz](#), Section 61(7)).

Scope of legal assistance

According to Section 61 of the Administrative Court Act 1985 | [Verwaltungsgerichtshofgesetz](#), the requirements and effects of granting legal aid are found in Sections 63 to 73 of the [Code of Civil Procedure](#). This right covers the assignment of a lawyer to the requesting party for drafting and filing the appeal, and representation at the hearing before the Federal Administrative Court, pursuant to Section 61(1) of the [Verwaltungsgerichtshofgesetz](#).

For appeals for revision before the Supreme Administrative Court (VwGH) and appeals before the Constitutional Court (VfGH), a lawyer is mandatory and designated from the Bar Association.

Procedural aspects

In proceedings before the Federal Administrative Court, representation by a lawyer is not compulsory, but the parties are free to grant a power of attorney to a lawyer for the complaint proceedings.

Contact information is contained in the decision of the BFA and legal representation is provided by the Federal Agency for Care and Support in all cases (mandatory for appeals procedures).

For appeals for revision before the Supreme Administrative Court (VwGH) and appeals before the Constitutional Court (VfGH), a lawyer is mandatory. Asylum applicants can apply for legal aid.

Type of appeal

Section § 52 of the Federal Office for Immigration and Asylum Procedures Act (BFA-VG) provides that an asylum applicant in proceedings before the Federal Administrative Court (first appeal instance) shall be provided with a legal advisor free of charge.

It is possible to apply for legal aid for the proceedings at the Federal Administrative Court. Legal aid is the temporary exemption from any costs incurred in the proceedings (e.g. court fees, fees for witnesses, experts and interpreters, costs for representation by a lawyer). (source: Federal Administrative Court (BVwG), [Proceedings](#))

For appeals for revision before the Supreme Administrative Court VwGH and appeals before the Constitutional Court (VfGH), a lawyer is mandatory, and asylum applicants can apply for legal aid.

For the Constitutional Court, section 20(2) of the Constitutional Court Act ([VfGG](#), [Verfassungsgerichtshofgesetz](#)) provides that the reporter decides on the granting of legal aid,

including the reimbursement of cash expenses. Decisions rejecting an application for legal aid based on the merits of the case or for formal reasons shall be made by the president upon request of the reporter if the VfGH is not in session see.

Further information can be found [here](#).

Representation

Legal representation is the same as legal assistance for appeals.

Aspects related to applicants with special needs

The BFA appoints a legal representative for unaccompanied minors (UAM) as soon as they apply for international protection. UAMs are provided with free legal representation and counselling at all stages of the procedure. ([EUAA Factsheet on Dublin transfers](#))

Since January 2021, the [Federal Agency For Reception and Support Services BBU](#) is in charge for the legal representation of unaccompanied children. Legal representatives have to be present at interviews organised. Once the unaccompanied minors has been admitted to the regular procedure, the Child and Youth Service (KJH Kinder- und Jugendhilfe) takes over the legal representation, in accordance with the Asylum Act or by court decision.

Right to counselling in the Dublin procedure

Since 1 January 2021, [Federal Agency For Reception and Support Services BBU](#) offers [return counselling](#), including to asylum applicants in proceedings under the Dublin III Regulation who will be informed about a possible voluntary transfer to the responsible EU Member State.

Access to legal aid while in detention

Applicants in detention have access to legal aid. The detainee has the right to call a lawyer, who can visit their clients during working hours in a special visitor room. UNHCR representatives have access without restrictions.

Representatives of civil society organisations need prior authorisation to act as detainees legal representatives, during office hours. ([EUAA Factsheet Dublin transfers](#)).

Detained applicants can appeal against detention orders pursuant to Sections 82 and 83 of the [Aliens Police Act](#), and legal aid can be obtained as per the regular procedure for appeals.

Quality assurance

Selection, qualifications and training

Information currently not available.

Mechanisms for quality assurance

Information is currently not available.

Inter-institutional cooperation

Information is currently not available.

Legal assistance and representation for related procedures

Reception conditions

In the appeal as provided under Art 26 RCD, the applicant has access to legal advice and legal representation through the Federal Agency for Reception and Support Services (BBU). Since 1 January 2021, the newly-established Federal Agency for Reception and Support Services (BBU GmbH) is in charge of providing legal advice and legal representation. The applicant can lodge an appeal according to §9 (2) GVG Bund ([EUAA Factsheet Dublin transfers](#))

Family reunification

Information is currently not available.

Temporary protection procedure

Information is currently not available.

Beneficiaries of international protection

Information is currently not available.