Legal assistance and representation - Switzerland

Overview

Content updated on: 4/07/2025

Relevant EU legislation

Switzerland is not bound by the recast the recast Asylum Procedures Directive, the Dublin III Regulation and the recast Reception Conditions, but has adopted similar provisions through the Asylum Act.

National legislation

Dublin III Regulation and the recast Reception Conditions, but has adopted similar provisions through the Law of 26 June 1998 on asylum (Asylum Act)

Relevant provisions of the Asylum Act are:

- Article 12a – notification of the asylum decision;
- – legal assistance for applications at the airport;
- Article 102f – mentions the principle of access to free legal counselling and representation in the regular procedure;
- Article 102g – legal counselling
- Article 102h – legal representation
- Article 102i – tasks of the legal assistance providers
- Article 102j – scope of legal assistance
- Article 102k – payment for legal counselling and representation;
- Article 102l – legal assistance in the extended procedure;
- Article 102m- free legal assistance in appeals;

Other relevant legislative provisions:

- Ordinance 1 of 11 August 1999 on asylum procedure (OA 1)
- Ordinance 2 of 11 August 1999 on asylum (OA 2)

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- Ordinance of the FDJP on the on the management of federal reception centres in the field of asylum and accommodation at airports.
- Federal Constitution of the Swiss Confederation (Cst.), RS 101
- Federal Act on Administrative Procedure (PA), RS 172.021
- Ordinance on the conduct of test phases relating to acceleration measures in the field of asylum (Ordinance on test phases);
- Federal Supreme Court Act

Competent authority and stakeholders

Area	National authority/stakeholder
Provision of legal and procedural information on the applicant's rights and obligations	Legal information is provided by the designated counsel, pursuant to Article 102f-g of the Asylum Act. Legal and procedural information can be also provided by civil society organisations.
Legal assistance at first instance determination	State-funded legal assistance is provided by lawyers or persons with law degree who are counselling and representing asylum applicants, as a profession – pursuant to Article 102i (4) of the Asylum Act.
Legal counselling provided by civil society organisations or other organisations	Legal assistance can be also provided by civil society organisations – see section 3.1. and Article 102i (3) of the Asylum Act.
Legal assistance at second instance determination	State-funded legal assistance is provided by lawyers or persons with law degree who are counselling and representing asylum applicants, as a profession – pursuant to Article 102i (4) and Article 102m (3-4) of the Asylum Act (merits tests).

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Area	National authority/stakeholder
Legal assistance for other related procedures	State-funded legal assistance is available for procedures related to Dublin, detention, reception conditions and return. Civil society organisations provide legal assistance on certain procedures.

Access to legal assistance and representation

Provision of information on legal assistance and representation

According to Article 102f of the Asylum Act, the applicant whose application is examined in one of the Confederation centers, has the right for a counsel and a legal representation free of charge. Article 102g provides that the applicant benefits of a counsel concerning the asylum procedure and that person shall provide to the applicant legal and procedural information, on the right and obligations of the applicant during the asylum procedure.

Article 14 of the Ordinance of the FDJP on the on the management of federal reception centres in the field of asylum and accommodation at airports stipulates that the persons accommodated in the reception centers of the Confederation as well as those in the premises of the airports have free access to information related to Article 102f of the Asylum Act (free legal assistance and representation), and to other documents, in particular to the list of legal advisers and legal representatives, with their contacts.

Civil society organisations are also providing information on the asylum procedure.

The Swiss Organisation for Aid to Refugees (Osar) provides general information on the asylum procedure (biweekly permeances by phone) and training for professionals on the asylum procedure, but it does not intervene in individual cases.

The Swiss Refugee Council provides legal information on the asylum system in Switzerland and on the rights deriving from each protection status, during a weekly phone consultation. However, the organisation does not provide legal

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counselling on individual cases.

Access to premises

According to Article 3 (2)(d, e) of the Ordinance of the FDJP on the on the management of federal reception centres in the field of asylum and accommodation at airports, the following persons are authorised to access the premises of the Confederation and designated premises at the airport for asylum applicants: legal representatives of applicants and representatives of organisations who need access to accomplish legal activities.

Article 23t of he Ordinance of the FDJP on the on the management of federal reception centres in the field of asylum and accommodation at airports provides for the obligation of the asylum seeker accommodated in federal reception center to be present on the day when it has an appointment with a legal adviser or representative.

Requirements: Means test and merits test

There is no means or merits test to access legal assistance and representation at the first instance determination for procedures that are held in the federal centers or in a canton.

For appeals, there is a merits test (prospects of success of the appeal) and a means test, and the Federal Administrative Court may exempt an applicant from paying procedural fees and appoint a legal representative, upon request, pursuant to Article 102m of the Asylum Act. However, parties who later acquire sufficient financial means will be required to reimburse the public corporation or autonomous institution that paid the lawyer’s fees and costs, see Article 65 of the Federal Act on Administrative Procedure.

For cassation appeal, the Federal Supreme Court can exempt an applicant from paying procedural costs if s/he does not have the financial means, unless the appeal appears not to have any prospects of success – see Article 64(1) of the Federal Supreme Court Act.

Modalities to submit a request for legal aid

First instance determination

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Legal protection is regulated in Art. 102f of the revised Asylum Act and Art. 52a of the revised OA 1. According to the Asylum Act, each asylum seeker is granted, without a request, full legal representation from the beginning of the pre-trial phase. According to the Asylum Act, all persons whose applications are processed at a Confederation centre, at the airport or in an extended procedure are entitled to free legal advice and representation – see Article 102f of the Asylum Act, Article 52a (1) OA 1. In charge of ensuring that legal protection, the SEM appoints one or more service providers to carry out those tasks in the Confederation centres and at airport – see Article 102f (2) of the Asylum Act. After being allocated to a canton, asylum seekers may apply to the competent legal advice office of the canton of allocation for advice or representation at the stages of the first instance procedure, pursuant to Article 102l of the Asylum Act.

Second instance determination (appeals)

An applicant must submit an application for free legal aid before the Federal Administrative Court and prove that s/he does not have the means to cover the procedural and legal cost, even if the legal assistance is to be provided ex officio pursuant to Article 102m of the Asylum Act and Article 65 (2) of the Procedural Administrative Act.

For cassation appeals, the Federal Supreme Court may grant the applicant who does not have financial means to cover the procedural cost, a legal representative upon request and unless the application appears to have no prospects of success – see Article 64(2) of the Federal Supreme Court Act.

Outcome of the request for legal aid

In the case of first instance applications, according to the Asylum Act, each asylum seeker is granted, without a request, full legal representation from the beginning of the pre-trial phase. According to the Asylum Act, all persons whose applications are processed at a Confederation centre, at the airport or in an extended procedure are entitled to free legal advice and representation.

In the second instance, an applicant must submit an application for free legal aid before the Federal Administrative Court and prove that s/he does not have the means to cover the procedural and legal cost, even if the legal assistance is to be provided ex officio pursuant to Article 102m of the Asylum Act and Article 65 (2) of the Procedural Administrative Act.

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For cassation appeals, the Federal Supreme Court may grant the applicant who does not have financial means to cover the procedural cost, a legal representative upon request and unless the application appears to have no prospects of success – see Article 64(2) of the Federal Supreme Court Act.

Legal assistance and representation at first instance determination

Service provider

In Switzerland, legal assistance and representation can be provided by state funded selected providers, civil society organisations and private lawyers.

State funded

The SEM is selecting the legal aid provider based on a public tender for provision of legal counselling and legal representation as provided under Article 102h,l of the Asylum Act for the duration of the procedure in the federal centers for asylum seekers. According to Article 102i (4) of the Asylum Act, legal representation can be provided by lawyers or law degree holder who provide legal counselling and representation in a professional capacity. Article 102i (3) of the Asylum Act provides that legal counselling can be provided by persons who provide such services in a professional capacity.

Following a tender announced in March 2024, the SEM has attributed in July 2024 the mandates for legal assistance and representation starting with 1st March 2025 to Cariras Switzerland, Bernese Legal Advice Centre for People in Distress and the Swiss Workers' Aid Organisation (OSEO), the Swiss Protestant Aid Organisation (EPER), and the bidders' community of Caritas Switzerland and OSEO Ticino. The mandates are valid between 1 March 2025 until 28 February 2027 and may be extended by the SEM with an additional two years, until 28 February 2031 the latest.

The selected provider has the duty to assign legal representative for the asylum seekers – see Article 102i (2) of the Asylum Act.

Legal assistance is available in the federal reception centers, and the list of locations is available here.

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For legal assistance and representation after the applicant has been attributed to a canton, Article 102l of the Asylum Act provides that the applicant can benefit of free legal counselling or representation from a local legal aid office or the previously assigned representative. Pursuant to Article 102l (3) of the Asylum Act , the Federal Council fixes the conditions applicable for an agreement with the legal aid office for provision of free legal counselling or representation in the extended procedure.

Civil society organisations

There are several civil society organisations which can provide legal assistance and representation at first instance determination. For example, Asylex provides support and advise in different steps of the Swiss asylum procedure and asylum law in general. Asylex is also coordinating a global platform which contains a list of legal assistants, Rights in Exile.

Also, Caritas Switzerland is providing legal counselling and legal representation as mandated by the SEM.

EPER provides legal counselling, assistance and representation through the SAJE (services of legal aid to asylum seekers, beneficiaries of protection and those provisionally admitted), in the canton of Vaud, besides the mandate allocated by the SEM, and also in other locations.

Scope of legal assistance

The Asylum Act, precisely Article 102f, provides that asylum seekers have the right to free legal representation and access to free legal advice during their stay in a federal asylum centre. After leaving the federal asylum centre, legal protection is guaranteed in the form of legal advice centres in the canton.

The purpose of free advice provided in the reception centres of the Confederation, at the airport or in extended proceedings is to inform the applicants of their rights and obligations during the asylum procedure – see Article 102g of the Asylum Act, and Article 52b paragraph 1 OA 1, whereas free legal representation must enable the applicants to benefit from representation at first instance.

According to Articles 102i,j,k of the Asylum Act, the following tasks are covered:

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- ensure, organise and implement counselling and legal representation in the federal asylum centre, while ensuring quality of services;
- take part in the first interview during the preparatory phase, in the personal interview on the reasons for requesting asylum, and in other phases of the procedure, where the presence of the legal representative is deemed necessary;
- information and counselling;
- take position on the proposal of a negative decision;

If the legal representative does not provide an opinion on the project of a negative decision, or it provides outside the deadlines, it is presumed that the legal representative waived the right to take a position pursuant to Article 102j (3) of the Asylum Act.

- Defend the interested of unaccompanied minors in their capacity of trust persons in the federal centers and at the airport;
- In case of passing to the extended procedure, to inform the legal representative of the legal aid office on the state of play in the case or to keep the mandate of representation in presence for cases provided under Article 102l of the Asylum Act (legal counselling and assistance when the applicant is in a canton).

Pursuant to Article 102l of the Asylum Act an applicant who was attributed to a canton, can benefit of free legal assistance or representation for the procedure at first instance determination, in particular if there is a need to organise an additional interview on the reasons for having requested asylum.

The SEM guidance on legal assistance provides details on the tasks of the legal adviser.

Procedural aspects

Asylum seekers may renounce free legal representation at any time during the procedure – see Article 102h (1) of the Asylum Act.

According to Article 12a the Asylum Act, the decisions are notified to the legal representative when one has been designated.

Representation

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According to Articles 102i,j,k of the Asylum Act, the following tasks are covered:

- ensure, organise and implement counselling and legal representation in the federal asylum centre, while ensuring quality of services;
- take part in the first interview during the preparatory phase, in the personal interview on the reasons for requesting asylum, and in other phases of the procedure, where the presence of the legal representative is deemed necessary;
- information and counselling;
- take position on the proposal of a negative decision;

If the legal representative does not provide an opinion on the project of a negative decision, or it provides outside the deadlines, it is presumed that the legal representative waived the right to take a position pursuant to Article 102j (3) of the Asylum Act.

- Defend the interested of unaccompanied minors in their capacity of trust persons in the federal centers and at the airport;
- In case of passing to the extended procedure, to inform the legal representative of the legal aid office on the state of play in the case or to keep the mandate of representation in presence for cases provided under Article 102l of the Asylum Act (legal counselling and assistance when the applicant is in a canton).

Pursuant to Article 102l of the Asylum Act, an applicant who was attributed to a canton, can benefit of free legal assistance or representation for the procedure at first instance determination, in particular if there is a need to organise an additional interview on the reasons for having requested asylum.

The SEM guidance on legal assistance provides details on the tasks of the legal adviser.

Aspects related to special procedures

Border procedure:

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At the airport: Article 22 (3bis) of the Asylum Act provide that articles 102f to 102k apply *mutatis mutandis* and the Confederation guarantees a counsel and a legal representation for an applicant who lodges an application at the airport.

Accelerated procedure and Dublin procedure:

Chapter 8, section 1 arts. 102f-k of the Asylum Act provide on legal protection for asylum applicants in federal reception centers. All asylum applicant has the right to free advice and legal representation. Legal counselling should cover information about rights and obligations in the asylum procedure.

Legal representation is ensured to each applicant from the beginning of the preparatory phase until the asylum decision enters into force, pursuant to Article 102h (3) of the Asylum Act, unless explicitly waived by the applicant. The free representation of the asylum seeker also extends to a possible appeal procedure against a decision taken under the accelerated procedure or the Dublin procedure. The scope of that legal representation in the accelerated procedure is to ensure compliance with the rules of the rule of law and the principle of fairness. Free legal representation can therefore come to an end only where the legal representative is not prepared to bring an action because it would be considered as not having prospects of success – see Article 102h (4) of the Asylum Act.

The legal representative must inform the applicant without delay – as soon as possible after notification of the decision rejecting the asylum application – of his or her intention not to lodge an appeal and of his or her decision to terminate the representation mandate - see Article 102h (4) of the Asylum Act. The rapid communication of the lack of chances of success of an action is of key importance because in the event of the end of the representation mandate, the asylum seeker must have the possibility, despite the short time available to him, to lodge an appeal, himself or with the help of a legal representative whom he himself has freely chosen. Where the appointed legal representative is not prepared to bring an action because it would be deemed as not having prospects of success, s/he is nevertheless under an obligation to inform the applicant of the other possibilities of legal advice and representation – see Article 52e of the OA 1 .

See also the SEM guidance on legal assistance.

Aspects related to applicants with special needs

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The same rules apply as for access to legal assistance and representation in the regular procedure.

Legal assistance and representation cannot be waived here the applicant is an unaccompanied minor, s/he must be capable of discernment in order to make such a decision. Even if a legal provider no longer represents the unaccompanied minor, the legal representative initially appointed performs a function of confidential counsellor. The appointment of a confidential counsellor is a mandatory measure because it is a transitional solution under the Law on asylum pending the ordering, where appropriate, of measures for the protection of minors within the meaning of the Civil Code.

See SEM guidance on legal assistance.

Legal assistance and representation in appeals

Service provider

State funded

According to Article 102m (1) of the Asylum Act, the tribunal (Federal Administrative Court) can appoint a legal representative for appeals, upon a request by the applicant.

Paragraph 3 of Article 102m of the Asylum Act, the legal adviser can be a holder of an university degree in law who provides, in a professional capacity, legal counselling and representation for asylum seekers.

Civil society organisations

Asylex provides support and advise in different steps of the Swiss asylum procedure and asylum law in general, including on drafting appeals.

Scope of legal assistance

Legal assistance/representation is not mandatory for filling in appeals before the Federal Administrative Court, see procedure here.

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According to Article 102m of the Asylum Act, upon the applicant's request, FAC will appoint an official legal adviser and exempt the applicant from procedural costs when the appeal is against:

1. a decision to dismiss the application, decision to refuse asylum and removal order;
2. a decision on the revocation or expiry of asylum;
3. the termination of temporary admission relating to asylum;
4. a decision relating to granting temporary protection.

Free state funded legal aid is not provided if the appeal is against a decision on a Dublin transfer, re-examination and review of proceedings, or concerning multiple applications. For these appeals, Article 65(2) of the Administrative Procedure Act applies and the FAC would appoint a legal adviser only if it is necessary to safeguard the rights of the applicant (specific difficulties in facts or in law).

According to Article 102k (d) of the Asylum Act, the legal representative has to provide advice and represent the applicant in the appeals procedure, including to draft the appeal.

The SEM guidance on legal assistance provides details on the tasks of the legal adviser.

Procedural aspects

Article 100 of the Asylum Act states that courts are managing an electronic system for registration of appeal and control of cases.

Type of appeal

Free legal assistance can be provided upon request for appeals before the Federal Administrative Court (see Article 102m of the Asylum Act) and for cassation appeals before the Federal Supreme Court, if the latter considers it necessary to protect the appellants rights (Article 64(2), Federal Supreme Court Act).

Representation

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Legal assistance/representation is not mandatory for filling in appeals before the Federal Administrative Court, see procedure here.

According to Article 102m of the Asylum Act, upon the applicant's request, FAC will appoint an official legal adviser and exempt the applicant from procedural costs when the appeal is against:

5. a decision to dismiss the application, decision to refuse asylum and removal order;
6. a decision on the revocation or expiry of asylum;
7. the termination of temporary admission relating to asylum;
8. a decision relating to granting temporary protection.

Free state funded legal aid is not provided if the appeal is against a decision on a Dublin transfer, re-examination and review of proceedings, or concerning multiple applications. For these appeals, Article 65(2) of the Administrative Procedure Act applies and the FAC would appoint a legal adviser only if it is necessary to safeguard the rights of the applicant (specific difficulties in facts or in law).

According to Article 102k (d) of the Asylum Act, the legal representative has to provide advice and represent the applicant in the appeals procedure, including to draft the appeal.

The SEM guidance on legal assistance provides details on the tasks of the legal adviser.

Aspects related to applicants with special needs

There are no specific rules for applicants with special needs, the general rules above apply.

Right to counselling in the Dublin procedure

Free representation of the asylum seeker also extends to a possible appeal procedure against a decision taken under the accelerated procedure or the Dublin procedure.

Access to legal aid while in detention

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According to Article 81 (1) of the Federal Act on Foreign Nationals and Integration , the detained foreigner can communicate with his legal representative.

Access to legal advice and representation for persons who apply for asylum at the airport and are consequently confined in the transit zone is guaranteed by Article 22(3bis) of the Asylum Act.

The AsyLex Detention Team can provide legal advice on administrative detention and representation to asylum seekers directly. A list of Asylex legal aid centers is available here.

Quality assurance

Selection, qualifications and training

The Swiss State Secretariat for Migration (SEM) commissions select one or more service providers to carry out the tasks of free legal counselling and representation. The SEM is responsible for selecting the organisations that are responsible for providing advice and legal representation. The selection is made through an open tender procedure in accordance with the provisions of the Federal Act on Public Procurement and the corresponding ordinances. The SEM carries out an admission procedure for the provision of legal protection services in the extended procedure.

Legal representatives must either be attorneys or have a university law degree (Master of Law or license juridique). They must also have at least six months of experience in representing asylum seekers. This requirement is reduced to three months in the first 12 months after the start of the mandate. Foreign language skills and intercultural communication skills are also required.

Organisations that want to offer legal advice and representation must use qualified personnel who meet the above requirements. They must present a concept for quality assurance and training and be able to provide the services at all required locations.

The providers are obliged to use qualified and trained counsellors and legal representatives for asylum-specific and human rights issues. This includes specific training and documentation of the relevant qualifications.

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See also the SEM Guide on legal assistance.

The SEM published its first call for selection of habilitated legal aid offices in 2019, after the revision of the Asylum Act. The latest call for tenders for legal aid services was launched in February 2024 and the successfully selected providers were announced in July 2024, to start in March 2025.

Mechanisms for quality assurance

The SEM and the legal protection organisations themselves are primarily responsible for coordination and quality assurance. Regular exchange formats take place between the legal protection organisations on one side, and between the SEM and the legal protection organisations. In addition, the SEM requires regular supervision.

The quality assurance mechanism includes regular training, detailed process documentation and the specification of standards for counselling and legal representation. In addition, the SEM continuously monitors the providers.

Providers of legal protection activities and authorised legal advice offices shall ensure that the quality necessary for the conduct of the asylum procedure is ensured, both in terms of advice and legal representation – see Article 102i(1) of the Asylum Act and Article 52a (2) OA 1. Thus, service providers and consultancy firms are accountable for the quality of their employees' work.

The SEM, in its capacity as principal, verifies the quality of the services provided and intervenes if it finds any shortcomings. However, the independence of counsel and representation must, however, be guaranteed in all circumstances – Article 52a(1) of the OA 1.

See also the SEM Guide on legal assistance.

Inter-institutional cooperation

Article 102i of the Asylum Act, paragraph 5 mentions that legal aid providers and the SEM will have a regular exchange of information in order to coordinate tasks and ensure quality of services.

Article 109a of the Asylum Act provides for a regular exchange of information between the institutions for the administrative procedures of first and second instance.

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Legal assistance and representation for related procedures

Reception conditions

The Ordinance of the FDJP on the on the management of federal reception centres in the field of asylum and accommodation at airports provides that measures adopted for the application of this ordinance, specifically Article 26, are to be communicated by SEM to the legal representative of the applicant. The applicant has the right to appeal against measures adopted on reception conditions before the Federal Administrative Court pursuant to Article 28 of the ordinance.

The general rules of procedure of the Federal Administrative Court apply for access to legal aid to appeal against measures related to reception.

Family reunification

Asylex provides support and advise in different steps of the Swiss asylum procedure and asylum law in general, including on family reunification.

Temporary protection procedure

Free legal assistance is provided in the federal reception centers, through the legal advice offices. Civil society organisations are also providing legal information and assistance to applicants for the S status (equivalent for temporary protection).

Beneficiaries of international protection

Information is currently not available.

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