Legal assistance and representation - Malta

Overview

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Relevant EU legislation

Malta is bound by the recast Asylum Procedures Directive, the recast Qualification Directive, the recast Reception Conditions Directive, and the Dublin III Regulation. The country has transposed provisions from these legal instruments in the International Protection Act, Chapter 420 of the Laws of Malta, the Procedural Standards for Granting and Withdrawing International Protection Regulations, Subsidiary Legislation 420.07, and the Reception of Asylum Seekers Regulations, Subsidiary Legislation 420.06.

National legislation

International Protection Act, Chapter 420 of the Laws of Malta

- Article 2, definition of “legal adviser”
- Article 7(4) – right to free legal aid at second instance
- Article 23(6) – right to obtain services of legal adviser to assist during accelerated procedures
- Article 25(1)(c) – power of the Minister to regulate the provision of legal aid for applicants

Reception of Asylum Seekers Regulations, S.L. 420.06

- Article 4(1) – Principal Immigration Officer to ensure provision of information with information on access to legal assistance for reception purposes.
- Article 6(2) – obligation of Principal Immigration Officer to inform applicant of right to obtain free legal assistance and representation to challenge detention.

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- Article 6(5) – right to free legal assistance and representation during review of the lawfulness of detention.
- Article 6A(5) – Access to detention of legal advisers and counsellors
- Article 12(2(b) – obligation of reception authorities to provide possibility of communicating with legal advisers
- Article 12(4) – reception authorities to provide the possibility of informing legal adviser of transfer to a new address
- Article 16 – free legal assistance and representation to challenge age assessment and reception related decisions before the Immigration Appeals Board

Procedural Standards for Granting and Withdrawing International Protection Regulations, S.L. 420.07

- Article 4(1)(a)(v) – obligation to inform applicant of right to consult national organisations providing legal advice and to have legal assistance during all phases of asylum procedure.
- Article 10(4) – legal adviser be allowed to assist applicant during personal interview
- Article 11(8) – timely access by legal adviser to report, transcript, recording of personal interview before a decision on the application is taken
- Article 12(1) – right of applicant to consult, at their own expense, in an effective manner, a legal adviser at all stages of the procedure, except for appeals where the entitlement is to free legal assistance.
- Article 12(2) – right of legal adviser to access to the information in applicant's file, including country of origin information
- Article 12(3) – right of legal adviser to access detention
- Article 12(4) – right of legal adviser to bring legal adviser to the interview

Competent authority and stakeholders

Area	National authority/stakeholder
Provision of legal and procedural information on the applicant's rights and obligations	Upon registration, the International Protection Agency provides an information package which contains legal and procedural information on the application and the possibility to engage a lawyer at their own expenses.

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Area	National authority/stakeholder
Legal assistance at first instance determination	At the applicant's own expense or through the free service of specialised civil society organisations (Aditus and Jesuit Refugee Service Malta).
Legal counselling provided by civil society organisations or other organisations	Legal counselling is provided free of charge by Aditus and Jesuit Refugee Service Malta.
Legal assistance at second instance determination	State-funded legal assistance is provided by a pool of lawyers contracted by the Ministry for Home Affairs, Security and Employment. This also applies for appeals from Dublin transfer decisions.
Legal assistance for other related procedures	State-funded legal assistance is available for procedures related to detention, reception (including age assessment).

Access to legal assistance and representation

Provision of information on legal assistance and representation

In terms of S.L. 420.06, there are obligations on the immigration authorities (Principal Immigration Officer – PIO – responsible for implementing immigration laws under the Immigration Act, Chapter 217 of the Laws of Malta) to provide information on the right to seek legal assistance in certain circumstances relating to detention, reception and age assessment.

The PIO shall take the necessary steps so that within a reasonable time and nor exceeding fifteen days from the day an asylum seeker has lodged and application, the asylum seekers shall be informed of any established benefits and of the obligations with which they must comply relating to reception conditions. In this respect, the PIO shall ensure that an applicant is provided with information on organisations or groups of persons that provide specific legal assistance and organisations or groups of persons that provide specific legal assistance and organisations that might be able to help or inform them concerning the available reception conditions, including health care. This information has to be in writing

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and, as far as possible, in a language that the applicant may reasonably be supposed to understand. Where appropriate, this information may also be given verbally (Article 4 S.L. 420.06).

With regards to detention, whenever a detention order is issued, the PIO (who issues the detention order) shall inform the applicant of procedure to challenge detention and obtain free legal assistance and representation.

With regards to the asylum procedure which is regulated by S.L. 420.07, the authorities have an obligation to inform the applicant of their right to consult UNHCR or any other national organisation providing legal advice and to have legal assistance during all the phases of the asylum procedure (Article 4(1)(a)(v) of S.L. 420.07). This information shall begiven in time to enable the applicant to exercise the rights guarantees and to comply with the obligations prescribed by law.

Access to premises

Access to detention by UNHCR

Article 6A(4) of S.L. 420.06 states that representatives of UNHCR shall be given the possibility to communicate with and to visit applicants in detention in conditions that respect privacy. In practice, UNHCR are permitted to visit applicants in detention if they can identify the applicant (usually by their immigration number or name). In the absence of these personal details, visits to the general population in detention are not permitted. UNHCR previously enjoyed free access to asylum seekers in detention centres and also held a number of information provision and monitoring activities. Changes to the rules relating to access to detention centres were made in 2018.

Access to detention by lawyers and civil society organisations

Article 6A(5) of S.L. 420.06 states that legal advisers, counsellors, representatives of relevant non-governmental organisations and family members of detainees shall be given the possibility to communicate with and visit applicants in detention in conditions that respect privacy, in accordance with rules and conditions that may be laid down by legislation regulating detention facilities. The law also stipulates that specialised detention facilities or facilities for the detention of sentenced persons may provide for limitations to access where necessary for purposes of administrative management or the upkeep of

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security and public order, as long as access is not severely restricted or rendered impossible.

Access to other reception modalities

In terms of Article 12(5) of S.L. 420.06, family members, legal advisers or counsellors of asylum seekers and representatives of UNHCR or non-governmental organisations designated by the latter and recognised by the authorities, shall be granted access to accommodation centres and other accommodation facilities in order to assist asylum seekers. In granting such access the authorities responsible for the management of reception centres may impose such limits as they may deem appropriate on grounds relating to security and the centres and facilities and of the asylum seekers. Furthermore, Article 12(4) of the same legislation, states that applicants shall be provided with the possibility of informing their legal advisers of the transfer and of their new address.

Requirements: Means test and merits test

Where granted by law, free legal aid is given to all applicants who are entitled to it and who request it. No means testing applies.

Modalities to submit a request for legal aid

No information is currently available.

Outcome of the request for legal aid

Where granted by law, free legal aid is given to all applicants who are entitled to it and who request it. There is no possibility for the applicant to choose their legal aid lawyer.

Legal assistance and representation at first instance determination

Service provider

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There is no free legal aid during the first instance determination procedure. Free legal assistance is offered by two civil society organisations: Aditus and Jesuit Refugee Service Malta. Both organisations have their own internal criteria on accepting cases for legal assistance and representation.

The applicant may engage private lawyers who offer services pro bono or at the cost of the applicant.

Scope of legal assistance

The scope of legal assistance covers the entire asylum procedure. Legal assistance at first instance stage is not free. The applicant must either seek the service of a private lawyer or request support from one of the two civil society organisations (Aditus and Jesuit Refugee Service Malta). Lawyers from civil society organisations provide legal information and advice both before and after the first instance decision, including an explanation of the decision taken and, in some cases, interview preparation and appeals.

Procedural aspects

The legal adviser is allowed to assist the applicant during the personal interview (Article 10(4) of S.L. 420.07). If requested they must have timely access to the report, transcript, and recording of the personal interview before a decision is taken (Article 11(8) of S.L. 420.07).

Article 12 of S.L. 420.07 regulates legal assistance more specifically. Firstly, an applicant shall be allowed to consult, at his own expense, in an effective manner, a legal adviser in relation to their application for international protection at all stage of the procedure.

In terms of Article 4(1)(c) of S.L. 420.07, a decision on an application for international protection may be served on the applicant’s legal adviser.

Representation

The International Protection Agency (IPA) shall allow the applicant to bring with them to the personal interview a legal adviser. The legal adviser may only intervene at the end of the personal interview. The IPA may provide rules

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covering the presence of legal advisers at all interviews in the first instance procedure. In practice, the IPA has developed policies and established internal guidance on the conduct of lawyers when they assist applicants during interviews. These rules were drafted in 2021 and concern the presence of any third party at the interview, including UNHCR. The rules provide a strict deadline of 5 days to provide supplementary statements.

The absence of a legal adviser does not prevent the IPA from conducting or continuing the personal interview with the applicant.

Aspects related to special procedures

Article 23(6) of the International Protection Act states that the applicant shall be informed of his right to obtain the services of a legal adviser to assist him during accelerated proceedings and to consult UNHCR. In practice, access to legal assistance when an applicant is undergoing accelerated asylum procedures while being held in detention can be challenging. Lawyers can only access detention centres if they know the immigration number or name of the specific applicant they would like to visit.

Aspects related to applicants with special needs

The same rules for legal assistance apply to applicants with special needs. Article 23(6) of the International Protection Act states that the applicant shall be informed of his right to obtain the services of a legal adviser to assist him during accelerated proceedings and to consult UNHCR. In practice, access to legal assistance when an applicant is undergoing accelerated procedure can be difficult as the applicant is usually held in detention. Lawyers can only access detention centres if they know the immigration number or name of the specific applicant they would like to visit.

Legal assistance and representation in appeals

Service provider

Free legal aid at second instance is provided by the Ministry for Home Affairs, Security and Employment as the contracting authority. Legal services offered by

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the Ministry through warranted lawyers include the provision of legal advice for appeal cases submitted by applicants before the International Protection Appeals Tribunal. Lawyers are required to carry out the following tasks:

- Meet applicants in preparation for case submission
- Lodge case submissions to the International Protection Appeals Tribunal
- Attend Tribunal hearings
- Follow-up submissions as necessary.

Free legal assistance is also offered by two civil society organisations: Aditus and Jesuit Refugee Service Malta. Both organisations have their own internal criteria on accepting cases for legal assistance and representation.

Applicants may also engage a private lawyer at their own cost or *pro bono*.

Scope of legal assistance

Article 12(1) of S.L. 420.07 states that in case of appeal, free legal assistance shall be granted under the same conditions applicable to Maltese nationals. Free legal assistance includes, at least, the preparation of the required procedural documents and participation in the hearing before a court or tribunal of first instance on behalf of the applicant. Legal assistance and representation shall not be arbitrarily restricted thus hindering the applicant's effective access to justice.

Procedural aspects

A legal adviser assisting and representing an applicant shall enjoy access to the information in the applicant's file, upon the basis of which a decision is or will be made and as is liable to be examined by the International Protection Appeals Tribunal (IPAT) insofar as the information is relevant to the examination of the application (Article 12(2) of S.L. 420.07).

The legal adviser shall also enjoy access to information regarding the general situation prevailing in the countries of origin of the applicant and, where necessary, in countries through which the applicant may have transited as well as other information in relation to particular issues such as medical, cultural, religious and child-related or gender issues. This information shall also be made available to the IPAT (Article 12(2) of S.L. 420.07).

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Where the disclosure of country of origin information, transit country information or other information to particular issues would jeopardize national security, the security of the organisations or persons providing information or the security of the person to whom the information relates, or where the investigative interests relating to the examination of applications for international protection by the International Protection Agency or the international relations of Malta would be compromised, such access shall be precluded (Article 12(2) of S.L. 420.07).

Legal aid lawyers engaged by the Ministry are required to follow the following procedures:

- Collect necessary documentation from the Ministry, the International Protection Agency, AWAS and any other relevant entity.
- Meet applicants at detention centres, the Agency for the Welfare of Asylum Seeker premises, the IPAT, Ministry or any other pertinent place.
- Attend hearings before the IPAT
- Submit appeal documents to the IPAT by the respective deadline.
- Follow up assigned appeal cases as required.

Furthermore, the lawyer's duties and responsibilities in appeal cases are the following:

- To provide, in terms of the International Protection Act (Chapter 420), such legal assistance as formally requested by an asylum seeker whose claim for asylum has been rejected at the first instance.
- To examine the grounds of appeal and present, in writing, the appellant's case before the International Protection Appeals Tribunal, established for this purpose.
- To attend, if required, sessions of the International Protection Appeals Tribunal to explain case submissions and provide other general assistance to appellants during their appeal.
- To carry out administrative work related to the preparation and presentation of the cases as well as in relation to the overall management of the caseload assigned by the Ministry;
- Report on the outcomes of interviews held with appellants and bring to the Ministry's attention any pertinent matters which may arise.

The legal aid lawyer should submit the appeal as soon as possible after the appellant is interviewed and by no later than 15 days from the issuance of the negative decision issued by the International Protection Agency. This also applies to appeals from Dublin transfer decisions.

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Type of appeal

Free legal assistance is not provided beyond the first instance appeal before the International Protection Appeals Tribunal.

Representation

Legal aid lawyers engaged by the Ministry are required to represent that applicant and follow the following procedures:

- Collect necessary documentation from the Ministry, the International Protection Agency, AWAS and any other relevant entity.
- Meet applicants at detention centres, the Agency for the Welfare of Asylum Seeker premises, the IPAT, Ministry or any other pertinent place.
- Attend hearings before the IPAT
- Submit appeal documents to the IPAT by the respective deadline.
- Follow up assigned appeal cases as required.

Furthermore, the lawyer's duties and responsibilities in appeal cases are the following:

- To provide, in terms of the International Protection Act (Chapter 420), such legal assistance as formally requested by an asylum seeker whose claim for asylum has been rejected at the first instance.
- To examine the grounds of appeal and present, in writing, the appellant's case before the International Protection Appeals Tribunal, established for this purpose.
- To attend, if required, sessions of the International Protection Appeals Tribunal to explain case submissions and provide other general assistance to appellants during their appeal.
- To carry out administrative work related to the preparation and presentation of the cases as well as in relation to the overall management of the caseload assigned by the Ministry;
- Report on the outcomes of interviews held with appellants and bring to the Ministry's attention any pertinent matters which may arise.

The legal aid lawyer should submit the appeal as soon as possible after the appellant is interviewed and by no later than 15 days from the issuance of the negative decision issued by the International Protection Agency. This also applies to appeals from Dublin transfer decisions.

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Aspects related to applicants with special needs

The same rules for legal assistance apply to applicants with special needs.

Right to counselling in the Dublin procedure

Free legal aid is only available to appeal from Dublin transfer decisions taken by the International Protection Agency, under the same modalities as appeals from decisions on the merits.

Access to legal aid while in detention

Article 6(5) of S.L. 420.06 states that the applicant shall be provided with free legal assistance and representation during the review of the lawfulness of his detention. Free legal assistance and representation entails preparation of procedural documents and participation in any hearing before the Immigration Appeals Board, responsible for reviewing the lawfulness of the applicant's detention. In connection to this, Article 6A(5) of S.L. 420.06 states that legal advisers, counsellors, representative of relevant non-governmental organisations and family members of detainees shall be given the possibility to communicate with and visit applicants in detention in conditions that may be laid down in legislation regulating detention facilities.

Lawyers are contracted by the Ministry for Home Affairs, Security and Employment to provide legal advice to applicants in detention during the review of their detention before the Immigration Appeals Board. Specifically, they are required to:

- To provide, in terms of the Reception of Asylum Seekers Regulations (Subsidiary Legislation 420.06), legal assistance and representation entailing preparation of procedural documents and participation in any hearing before the Immigration Appeals Board.
- To examine the grounds of appeal and present, in writing, the appellant's case before the Immigration Appeals Board.
- To attend, if required, sessions of the Immigration Appeals Board to explain case submissions and provide other general assistance to appellants during their appeal.

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- To carry out administrative work related to the preparation and presentation of the cases as well as in relation to the overall management of the caseload assigned by Ministry.
- To report on the outcomes of interviews held with appellants and bring to Ministry's attention any pertinent matters which may arise.

Appointment of legal aid and first hearing shall be carried out within 7 days of the issuance of detention order.

Free legal assistance to challenge the lawfulness of detention is also offered by two civil society organisations: Aditus and Jesuit Refugee Service Malta. Both organisations have their own internal criteria on accepting cases for legal assistance and representation. Lawyers from civil society organisations are only permitted to access detention facilities if they want to visit a specific applicant. This requires that they request specific permission to the Detention Service Agency in order to visit an applicant they identify by immigration number or name. They are not permitted to visit entire groups, for example after a group of persons arrive by boat and are subsequently issued with detention orders.

Applicants may also engage a private lawyer at their own cost or *pro bono*.

Quality assurance

Selection, qualifications and training

Classification: PublicArticle 2 of the International Protection Act defines "legal adviser" (a term used in relevant legislation) as a person who is authorised to practice the legal profession in Malta in terms of the Code of Organization and Civil Procedure.

Legal aid lawyers contracted by the Ministry for Home Affairs, Security and Employment are selected after a call for legal aid service is issued by the Ministry. In terms of their management, legal aid lawyers refer to the Office of the Permanent Secretary within the Ministry.

In order to be eligible for the fee-based service contract, bidders must submit a copy of their CV and legal warrant. There is no specific requirement that bidding lawyer be trained or have expertise in asylum and migration law. Lawyers shall attend any required training and information sessions during the duration of the contract. Training may be provided by relevant institutions such as the EUAA.

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The contract is awarded to the first 15 bidders who submit their bid by the set deadline and who satisfy the administrative and technical criteria. The Ministry reserves the right to award a contract to the remaining bidders should the need arise. The contract is for a period of 2 years which may be extended by a further two periods of 6 months each.

Lawyers from civil society organisations must also be persons who are authorised to practice the legal profession in Malta in terms of the Code of Organization and Civil Procedure. However, lawyers from civil society organisation have specific expertise in asylum and migration law.

Mechanisms for quality assurance

Legal aid lawyers are obliged to attend any required training and information sessions during the duration of the contract. Training may be provided by relevant institutions such as EUAA.

For legal aid lawyers, failure to carry out any of the following duties may lead to the Ministry for Home Affairs, Security and Employment terminating the contract.

- **Assignment of duties and responsibilities in Asylum appeal cases – International Protection Appeals Tribunal**
  - To provide, in terms of the International Protection Act (Chapter 420), such legal assistance as formally requested by an asylum seeker whose claim for asylum has been rejected at the first instance.
  - To examine the grounds of appeal and present, in writing, the appellant's case before the International Protection Appeals Tribunal, established for this purpose.
  - To attend, if required, sessions of the International Protection Appeals Tribunal to explain case submissions and provide other general assistance to appellants during their appeal.
  - To carry out administrative work related to the preparation and presentation of the cases as well as in relation to the overall management of the caseload assigned by Ministry;
  - Report on the outcomes of interviews held with appellants and bring to Ministry's attention any pertinent matters which may arise.

The legal aid lawyer should submit the appeal as soon as possible after the appellant is interviewed and by no later than 15 days from the issuance of the negative decision issued by the International Protection Agency.

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- **Assignment of duties and responsibilities in Dublin transfer cases – International Protection Appeals Tribunal**
  - To provide, in terms of Article 28(6) of the Dublin Regulation (EU) 604/2013, such legal assistance as formally requested by an asylum seeker whose claim for asylum has been rejected by the International Protection Agency as per Dublin criteria.
  - To examine the grounds of appeal and present, in writing, the appellant's case before the International Protection Appeals Tribunal established for this purpose.
  - To attend, if required, sessions of the International Protection Appeals Tribunal to explain case submissions and provide other general assistance to appellants during their appeal.
  - To carry out administrative work related to the preparation and presentation of the cases as well as in relation to the overall management of the caseload assigned by Ministry.
  - Report on the outcomes of interviews held with appellants and bring to Ministry's attention any pertinent matters which may arise.

The legal aid lawyer should submit the appeal as soon as possible after the appellant is interviewed and by no later than 15 days from the issuance of the negative decision issued by the International Protection Agency.

- **Assignment of duties and responsibilities in Detention cases – Immigration Appeals Board**
  - To provide, in terms of the Reception of Asylum Seekers Regulations (Subsidiary Legislation 420.06), legal assistance and representation entailing preparation of procedural documents and participation in any hearing before the Immigration Appeals Board.
  - To examine the grounds of appeal and present, in writing, the appellant's case before the Immigration Appeals Board.
  - To attend, if required, sessions of the Immigration Appeals Board to explain case submissions and provide other general assistance to appellants during their appeal.
  - To carry out administrative work related to the preparation and presentation of the cases as well as in relation to the overall management of the caseload assigned by Ministry.
  - To report on the outcomes of interviews held with appellants and bring to Ministry's attention any pertinent matters which may arise.

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Appointment of legal aid and first hearing shall be carried out within 7 days of the issuance of detention order.

- **Assignment of duties and responsibilities in Removal procedures – Immigration Appeals Board**
  - To provide, in terms of the Common Standards and Procedures for Returning Illegally Staying Third-Country Nationals Regulation (Subsidiary Legislation 217.12), legal assistance and representation entailing preparation of procedural documents and participation in any hearing before the Immigration Appeals Board.
  - To examine the grounds of appeal and present, in writing, the appellant's case before the Immigration Appeals Board.
  - To attend, if required, to sessions of the Immigration Appeals Board to explain case submissions and provide other general assistance to respondents during their appeal.
  - To carry out administrative work related to the preparation and presentation of the cases as well as in relation to the overall management of the caseload indicated by Ministry.
  - To report on the outcomes of interviews held with appellants and bring to Ministry's attention any pertinent matters which may arise.

Appointment of legal aid and first hearing shall be carried out as soon as possible following the issuance of a removal order.

- **Assignment of duties and responsibilities in Age Assessment cases, Immigration Appeals Board**
  - To provide, in terms of Regulation 16(1) of the Reception of Asylum Seekers Regulations (Subsidiary Legislation 420.06), legal assistance and representation entailing preparation of procedural documents and participation in any hearing before the Immigration Appeals Board. Appeals related to age assessment to the Immigration Appeals Board must be submitted within 3 working days from the age assessment decision.
  - To examine the grounds of appeal and present, in writing, the appellant's case before the Immigration Appeals Board.
  - To attend, if required, to sessions of the Immigration Appeals Board to explain case submissions and provide other general assistance to respondents during their appeal.
  - To carry out administrative work related to the preparation and presentation of the cases as well as in relation to the overall

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management of the caseload indicated by Ministry.
- To report on the outcomes of interviews held with appellants and bring to Ministry's attention any pertinent matters which may arise.

Inter-institutional cooperation

There is no formal arrangement for inter-institutional cooperation.

Legal assistance and representation for related procedures

Reception conditions

Article 16 of S.L. 420.06 states that applicants who feel aggrieved by a decision taken in pursuance to the provisions of the reception regulations and by a decision in relation to age assessment, shall be entitled to an appeal before the Immigration Appeals Board (IAB). Applicants who lack sufficient resources to appeal from a decision, are entitled to free legal assistance and representation. Free legal assistance and representation shall entail the preparation of the required procedural documents and participation in the hearing before the IAB.

Free legal aid at second instance is provided by the Ministry for Home Affairs, Security and Employment as the contracting authority. Legal services offered by the Ministry through warranted lawyers include the provision of legal advice for appeal cases submitted by applicants before the Immigration Appeals Board. Lawyers are required to carry out the following tasks:

- To provide, in terms of Regulation 16(1) of the Reception of Asylum Seekers Regulation (Subsidiary Legislation 420.06), legal assistance and representation entailing preparation of procedural documents and participation in any hearing before the Immigration Appeals Board. Appeals related to age assessment to the Immigration Appeals Board must be submitted within 3 working days from the age assessment decision.
- To examine the grounds of appeal and present, in writing, the appellant's case before the Immigration Appeals Board.
- To attend, if required, to sessions of the Immigration Appeals Board to explain case submissions and provide other general assistance to respondents during their appeal.

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- To carry out administrative work related to the preparation and presentation of the cases as well as in relation to the overall management of the caseload indicated by Ministry.
- To report on the outcomes of interviews held with appellants and bring to Ministry's attention any pertinent matters which may arise.

Free legal assistance to challenge age assessment decisions and other decisions taken by the Agency for the Welfare of Asylum Seekers (AWAS) is also offered by two civil society organisations: Aditus and Jesuit Refugee Service Malta. Both organisations have their own internal criteria on accepting cases for legal assistance and representation. Lawyers from civil society organisations are only permitted to access detention facilities if they want to visit a specific applicant. This requires that they request specific permission to the Detention Service Agency in order to visit an applicant they identify by immigration number or name. They are not permitted to visit entire groups, for example after a group of persons arrive by boat and are subsequently issued with detention orders. Applicants who are residing in open centres can meet their lawyers at their respective civil society offices.

Family reunification

No free legal aid is available under the Ministry for Home Affairs, Security and Employment scheme.

Legal aid for family reunification is available through the service of the national legal aid agency, Legal Aid Malta, under general conditions for Maltese nationals.

Lawyers from civil society organisations offer legal advice and support to beneficiaries of international protection on family reunification matters.

Temporary protection procedure

Free legal assistance is not available in the temporary protection procedure.

Lawyers from civil society organisations offer legal advice and support to Ukrainians on temporary protection matters.

Beneficiaries of international protection

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Legal aid for other matters is available through the service of the national legal aid agency, Legal Aid Malta, under general conditions for Maltese nationals.

Means Test: For an applicant to qualify under the means criteria, the person must not possess property of any sort, including disposable money, the net value whereof does not exceed €13,000 for the preceding twelve months. Moreover, the applicant's income should not, for the period of twelve months prior to the demand for the benefit of legal aid, exceed the national minimum wage for persons above the age of 18. Moreover, in calculating the net value for eligibility account shall be taken of the rent paid for the property used as the main residence, upon presentation of a registered contract according to law and relevant payment receipts; and account shall be taken of the maintenance paid to the other spouse and children, issued by a Court order, upon presentation of relevant evidence of payment. Excluded from the means test assessment are everyday household items that are considered necessary for the use by the applicant and his family, as well as the principal residence of the applicant or any property (both movable and immovable) which forms the subject matter of court proceedings.

Merits Test: For an applicant to qualify under the merits criteria, the Advocate for Legal Aid on examining the nature of the case must conclude that the applicant has reasonable grounds for taking or defending proceedings before the courts, i.e. that the applicant has in his favour a probabilis causa litigandi. Each case is examined on its own merits. The assessment carried out by the Advocate for Legal Aid would include examining the substance of the case, the possible outcome of the proceedings, and the prospect of success.

Means and Merits Test in Criminal Matters

No means and merits test are undertaken in criminal matters.

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