Legal assistance and representation - Estonia

Overview

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Relevant EU legislation

Estonia is bound by the recast Asylum Procedures Directive (APD), the recast Reception Conditions Directive and the Dublin III Regulation and has transposed their provisions through the Act on Granting International Protection to Aliens (AGIPA).

National legislation

Estonia transposed the recast Asylum Procedures Directive, the Dublin III Regulation and the recast Reception Conditions by the Act on Granting International Protection to Aliens (AGIPA) | Välismaalasele rahvusvahelise kaitse andmise seadus.

Competent authority and stakeholders

Area	National authority/stakeholder
Provision of legal and procedural information on the applicant's rights and obligations	Police and Border Guard Board (PBGB)
Legal assistance at first instance determination	Estonian Bar Association, NGOs (Estonian Human Rights Centre)

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Area	National authority/stakeholder
Legal counselling provided by civil society organisations or other organisations	Estonian Human Rights Centre
Legal assistance at second instance determination	Estonian Bar Association, NGOs (Estonian Human Rights Centre)
Legal assistance for other related procedures	Estonian Bar Association, NGOs (Estonian Human Rights Centre)

Access to legal assistance and representation

Provision of information on legal assistance and representation

According to Section 10(2) clauses 2, 6, and 7 of the Act on Granting International Protection to Aliens (AGIPA), applicants for international or temporary protection are entitled to:

1. Receive, at the earliest opportunity and no later than within 15 days of submitting their application, both orally and in writing, information about their rights and obligations, including legal assistance, reception conditions, organisations providing information, timeframes for international protection proceedings, and the consequences of non-compliance with their obligations, in a language they understand;
2. Perform procedural acts through a representative, except in the cases specified in Section 10 (3) and Section 17 (9) of the AGIPA;
3. Communicate with family members, a legal adviser, relevant state authorities, representatives of international or non-governmental organisations, and UNHCR.

Access to premises

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Upon detention, applicants are informed about the possibility of receiving legal aid. Legal counsellors are present in the detention centre on working days to provide legal aid.

Individuals in detention are permitted to correspond and meet with legal aid providers. They may also contact UNHCR, the Estonian Human Rights Centre and the IOM free of charge. Those without financial means may make phone calls free of charge, upon request, to legal aid providers, NGOs and other relevant stakeholders.

Requirements: Means test and merits test

According to Section 14 of the State-funded Legal Aid Act, an assessment of the applicant's financial situation is carried out by considering the applicant's assets, income, family members' assets and income, dependents, reasonable housing expenses, and other relevant factors. The court can also request additional financial information from the applicant or other sources, including credit institutions. If the applicant fails to provide sufficient evidence or answers, the court may refuse to grant legal aid.

No fees or charges are applicable in order to request free legal aid.

Modalities to submit a request for legal aid

The application form for state legal aid is available on a dedicated page of the Ministry of Justice and Digital Affairs website.

Under Section 12 of the State-funded Legal Aid Act, the application for state legal aid must include personal details, a description of the issue, the type of aid requested, reasons why legal aid is needed to protect the applicant's rights, the language in which the applicant can communicate, and any other relevant information. The application must include a financial notice in Estonian, although it may also be submitted in English under certain conditions.

The application for state legal aid must be submitted to the administrative court in the applicant's place of residence or seat, or to the court where the legal service is expected to be provided. The request cannot be submitted in digital form. There is no time limit to apply for legal aid.

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Outcome of the request for legal aid

The time limit for deciding on a request for legal aid is not regulated by law. If the request is approved, the court forwards it to the Bar Association, which appoints a legal adviser or counsel.

Legal assistance and representation at first instance determination

Service provider

State-funded legal aid is not available at first instance determination. The Act on Granting International Protection to Aliens (AGIPA), under Article 10(9), only provides the possibility to apply for legal aid for appeals. However, legal assistance at this stage is primarily provided by NGOs, especially the Estonian Human Rights Center (EHRC). The EHRC offers free legal aid to ensure effective access to the Estonian asylum procedure and the protection of the rights of individuals in need of international protection.

Legal counselling is provided to third country nationals, including for the international protection procedure, by qualified counsellors, from providers under the framework of the project Asylum, Migration and Integration Fund measure 2.1 "Migration counselling" support conditions. According to point 2.2 of the call for proposals, the aim of the project is to ensure that third-country nationals are guaranteed a legal counselling service to understand migration rules and carry out the necessary migration procedures. The support is planned for the period from 1 January 2024 to 31 December 2027.

Scope of legal assistance

Information is currently not available.

Procedural aspects

Information is currently not available.

Representation

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According to Article 10 (3) of the Act on Granting International Protection to Aliens (AGIPA), an applicant for international protection has the right to use a representative in the international protection procedure, except for providing explanations and other procedural actions that, by their nature, must be done personally.

Aspects related to special procedures

Information is currently not available.

Aspects related to applicants with special needs

There are no specific legal provisions regarding legal assistance for applicants with special needs. State-funded legal aid providers make the necessary arrangements on a case-by-case basis when assisting vulnerable applicants.

Legal assistance and representation in appeals

Service provider

According to Section 10, subsection 2, clause 9 of the Act on Granting International Protection to Aliens (AGIPA), applicants for international or temporary protection have the right to receive legal aid in proceedings before the administrative court when challenging decisions made under the AGIPA. This legal aid must be provided in accordance with Section 4, subsections 2 and 3 of the State-funded Legal Aid Act, as well as Section 252 of the Act on Granting International Protection to Aliens (AGIPA).

The Estonian Bar Association is competent to provide legal aid at the second instance, as are NGOs such as the Estonian Human Rights Centre.

Scope of legal assistance

In second-instance proceedings, the scope of legal aid is guided by the best interests of the applicant. The tasks of legal counsel are adjusted according to the applicant's request and individual needs. As a general rule, no activities are excluded from free legal aid under the law

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Procedural aspects

The legal representative may contact the Police and Border Guard Board (PBGB) to request access to the applicant's file. Classified information is not accessible through this procedure but may be requested separately from the Security Police.

Hearings may be organised by video-conference, and legal advisers may participate remotely.

Type of appeal

Free legal aid is provided for all types of appeal and at every stage of the appeal process, up to the final instance.

Representation

Applicants for international protection may be represented during second-instance proceedings.

Aspects related to applicants with special needs

There are no specific legal provisions regarding legal assistance for applicants with special needs. State-funded legal aid providers make the necessary arrangements on a case-by-case basis when assisting vulnerable applicants.

Right to counselling in the Dublin procedure

According to Section 32(10) of the Act on Granting International Protection to Aliens (AGIPA), an applicant contesting a decision to transfer them under the Dublin III Regulation to another Member State is entitled to state legal aid, including language assistance, in accordance with Section 10 (2) clause 9 of the AGIPA.

State legal aid is provided by the determining authority upon request. The service is provided by the ERF project or by representatives of the Bar Association Bureau | Eesti Advocatuur and the Estonian Human Rights Centre.

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Section 154, subsection 6, clause 8 of the Obligation to Leave and Entry Act (OLPEA) ensures that a detained alien is guaranteed the provision of state legal aid, in line with the provisions of Section 66 of the same Act. Additionally, Section 262, subsection 7 of the OLPEA states that upon arrival at the detention centre, the person's rights and obligations, including the opportunity to apply for state legal aid and access translation/interpretation services, must be explained in a language they can understand

The Police and Border Guard Board (PBGB) ensures that applicants in detention are informed of the possibility to access legal aid. Legal assistance is generally provided in person but may also be delivered by telephone or video conference.

Quality assurance

Selection, qualifications and training

Any advocate registered with the Estonian Bar Association may provide state-funded legal aid. Law offices that offer state-funded legal aid are selected through procurement procedures. The modalities for assessing the professional suitability of advocates are outlined in Sections 29 to 34 of the Bar Association Act.

Section 341 of the Bar Association Act regulates in-service training for advocates. However, very few attorneys pursue training on international protection, as this area of law constitutes only a small portion of their overall practice.

Mechanisms for quality assurance

A general code of conduct applies to legal advisers, and the Bar Association oversees the quality of legal assistance.

Inter-institutional cooperation

Regular annual meetings are held between the Police and Border Guard Board (PBGB), the courts, and the Bar Association.

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Legal assistance and representation for related procedures

Reception conditions

The general rules on legal aid apply.

Family reunification

The general rules on legal aid apply.

Temporary protection procedure

The general rules on legal aid apply.

Beneficiaries of international protection

The general rules on legal aid apply.

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