Legal assistance and representation - Ireland

Overview

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Relevant EU legislation

Ireland 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 International Protection Act 2015

National legislation

Ireland transposed the recast Reception Conditions Directive by the International Protection Act 2015. According to the International Protection Act, legal assistance means legal aid or legal advice, within the meaning of the Civil Legal Aid Act 1995.

Competent authority and stakeholders

Area	National authority/stakeholder
Provision of legal and procedural information on the applicant's rights and obligations	Civil society organisations
Legal assistance at first instance determination	Legal Aid Board Civil society organisations

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Area	National authority/stakeholder
Legal counselling provided by civil society organisations or other organisations	Irish Refugee Council Immigrant Council of Ireland Flac (Promoting access to justice) DORAS UNHCR
Legal assistance at second instance determination	Legal Aid Board
Legal assistance for other related procedures	Irish Refugee Council

Access to legal assistance and representation

Provision of information on legal assistance and representation

There are a number of civil society organisation or non-governmental organisations which provide advocacy, advice and assistance to refugees and international protection applicants; deal with their rights; and provide support with legal and other matters. They do not necessarily provide legal assistance and representation but provide information on private solicitors or services provided by the Legal Aid Board.

Information and guidance on legal advice is contained in Section 3.14 of the Information Booklet provided to applicants with the questionnaire that they are required to fill out as part of their application.

The Legal Aid Board has information on their website on legal assistance and representation.

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Citizens Information has information on their website on legal assistance and representation.

UNHCR has information on their website on legal assistance and representation.

Access to premises

Information is currently not available.

Requirements: Means test and merits test

The Legal Aid Board is the statutory, independent body responsible for the provision of civil legal aid and advice to persons of modest means, in accordance with the provisions of the Civil Legal Aid Act 1995.

A person can apply for legal services to the Legal Aid Board at any point after they have made a request for asylum. To qualify for legal services related to an asylum application, the applicant's income (less certain allowances) must be less than EUR 18,000 per annum. Applicants in Direct Provision (the state system of reception, accommodation and support for protection applicants) are generally eligible for legal services. Once a person has been deemed financially eligible or passported, the minimum income contribution in asylum matters of EUR 10 is payable but the applicant may apply to have all or part of the contribution waived on hardship grounds, at the discretion of the Legal Aid Board. The EUR 10 contribution covers both legal advice and legal aid representation, should it be required.

Appeals

To obtain legal assistance, an applicant must first obtain a legal aid certificate from the Board. Legal Aid Certificates are issued to applicants who meet the criteria in Section 28 of the Civil Legal Aid Act 1995. A merit and means test is applied.

Modalities to submit a request for legal aid

The Legal Aid Board, an independent statutory body funded by the state, provides a dedicated service for international protection applicants. There are

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dedicated units in Dublin, Cork and Galway where legal advice and aid services for international protection applicants are available.

Following submission of their international protection application, applicants are directed to the international protection unit within the Legal Aid Board for legal assistance and support to complete the questionnaire once they have entered the international protection process. Assistance with the questionnaire has not been available since 2022 due to changes in case processing in the IPO.

Asylum applicants can make an application for legal services to the Legal Aid Board as soon as they have made their application to the International Protection Office.

In recent years, the Irish Refugee Council has been assisting a number of people who have been registered with the Legal Aid Board and have been told to complete the questionnaire by themselves due to a general lack of capacity within the Legal Aid Board or a lack of capacity within the solicitors on the Legal Aid Board panel.

Appeals

A person may apply for legal assistance and representation at any Legal Aid Board law centre irrespective of their place or residence (Section 32 Civil Legal Aid Act 1995). The Legal Aid Board is an independent, publicly funded organisation which provides legal advice and assistance in civil law proceedings, including international protection cases.

The Civil Legal Aid (International Protections Appeals Tribunal) Order 2017 confirmed that IPAT is a court or tribunal within the meaning of Section 27(2b) of the Civil Legal Aid Act 1995, meaning that the eligibility criteria for legal aid are the same for applicants who appeal before IPAT and applicants who apply for legal services in respect of proceedings before any ordinary court.

The normal means and merits criteria apply to any application for legal aid for an appeal before IPAT, provided in the Civil Legal Aid Act 1995.

Outcome of the request for legal aid

There is a small contribution to be paid of EUR 10 that covers both legal advice representation, but this may be waived by the Legal Aid Board whereby an

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applicant does not have the means to cover the fee.

If an applicant has capital resources of more than EUR 4,000 (excluding their family home), they may have to pay an additional contribution.

If an applicant receives direct provision from the state (i.e. accommodation and meals provided directly instead of social welfare payments), they may apply to have some of their contribution waived, at the discretion of the Legal Aid Board.

Appeals

If an applicant's application for legal aid for representation is determined to meet the merits criteria and a legal aid certificate is granted, the Legal Aid Board nominates a solicitor or barrister from the list of legal aid lawyers based on the specifications of the case. Any practising solicitor or barrister may request to be added to the legal aid list upon application to the board that meets the criteria for the Panels.

An applicant may request to nominate a different solicitor or barrister and the board will consider whether the request is reasonable and may choose to nominate another solicitor or barrister (Section 31(3) Civil Legal Aid Act 1995). A request to change the solicitor or barrister during the proceedings may also be granted where appropriate.

If an applicant is refused legal aid, they have the right to appeal the decision (Section 37(2f) Civil Legal Aid Act 1995).

Legal assistance and representation at first instance determination

Service provider

State-funded

The Legal Aid Board, an independent statutory body funded by the state, provides a dedicated service for international protection applicants. Services in international protection and related matters are provided by the Legal Aid Board in three of the Board's Law Centres, namely Smithfield (Dublin), Pope's Quay (Cork) and Galway (Woodquay Law and Family Mediation Centre) and also by

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private solicitors on a panel. In addition, in February 2023 the board established a sub-panel of barristers to provide services in this area. The board has a dedicated Minors' Unit or Separated Children Unit located in Dublin to handle international protection applications by unaccompanied minors and the issues surrounding such applications.

Applicants who access the Legal Aid Board are assigned a solicitor and a case officer when the matter is being dealt with in-house by a law centre and are otherwise assigned a solicitor or barrister from the Panel.

Civil society organisations

They mainly provide information and counselling on the procedure and access to state-funded legal aid.

Irish Refugee Council: The independent law centre promotes and delivers early legal advice and representation to people from the early stages of the asylum process.

Immigrant Council of Ireland: In 2006, the Immigrant Council was recognised as an independent law centre, which operates on a strictly not-for-profit basis. The organisation can, through its legal team, represent clients directly at an administrative level and in court, both nationally and at a European level. The independent law centre is managed by a managing solicitor and is staffed by a further solicitor and legal assistants. Their work has been supported by a broader team of staff and volunteers. This is a free, but limited service for particularly complex situations or cases that give rise to specific policy concerns. They also offer a phone support service which provides confidential information on issues surrounding the Irish immigration system.

FLAC (Promoting access to justice): offers free and confidential legal information and advice to the public. Legal advice can be sought on their website, by telephone and referral line, or at one of their legal advice centres.

Nasc: provides a free legal service. NASC is based in County Cork and provides support in the south of the country and nationally.

DORAS: provides free and confidential advice and legal information services on immigration-related issues including asylum applications; direct provision; family reunification; employment rights and reporting racism.

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The applicant is entitled to consult the United Nations High Commissioner for Refugees (UNHCR) who has an office in Dublin for legal advice.

If an applicant has the funds, they can also seek the services of a private solicitor.

Scope of legal assistance

If an applicant makes an application for legal services in relation to a asylum, subsidiary protection or related matters, the applicant will be provided with assistance as soon as possible including:

- Advice before they attend the asylum interview at the IPO;
- Advice before they attend any interview at the IPO for subsidiary protection, including advice on the new procedures for deciding applications for subsidiary protection;
- Interpreters for appointments with their solicitor;
- If an applicant has made an application for asylum in another EU Member State, advice on written submissions to the IPO in support of their application for asylum being determined in Ireland.

Procedural aspects

Notification of the decision

The notification procedure may differ based on the type of decision issued. Nevertheless, all decisions are notified in writing, the information provided with the notification depends on the nature of the recommendation being made. For instance, recommendations of subsidiary protection, permission to remain or refusal of a refugee declaration must be accompanied by a statement of reasons, a copy of the report and notification of the right to appeal, while this is not necessary for decisions granting refugee status.

The legal aid board provides interpreters when the board provides services.

Representation

Information is currently not available.

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Aspects related to special procedures

Admissibility procedure: Asylum applicants in the admissibility procedure have access to legal assistance in the same way as in the regular procedure. At first instance, asylum applicants have access to free legal assistance during admissibility procedures which covers legal advice and representation in interview. Asylum applicants have access to legal assistance on appeal against an inadmissibility decision which covers legal advice and representation in interview.

Accelerated procedure: Asylum applicants in the accelerated procedure have access to legal assistance in the same way as in the regular procedure. At first instance, asylum applicants have access to legal assistance which covers legal advice but not representation in interview. Asylum applicants have access to legal assistance on appeal against a negative decision which covers legal advice and representation in interview.

Border procedure: The International Protection Act does not provide for a border procedure.

Aspects related to applicants with special needs

There are no provisions in the International Protection Act stating that a child must be appointed a lawyer, nor is there any legislative provision that a legal representative must be assigned within a certain period. Upon referral to the Child and Family Agency (Tusla), each unaccompanied child is appointed a social worker. Tusla then becomes responsible for making an application for the child, where it appears to Tusla that an application should be made by or on behalf of the child on the basis of information including legal advice in accordance with Section 15(4) of the International Protection Act. In that case, Tusla arranges for the appointment of an appropriate person to make an application on behalf of the child.

Legal assistance and representation in appeals

Service provider

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Civil society organisations may provide legal aid at second instance determination.

- Immigrant Council of Ireland as an independent law centre
- Irish Refugee Council's Free Legal Clinic can provide advice on access to legal aid.

Legal aid is however provided for most cases by the Legal Aid Board, an independent, publicly-funded organisation which provides legal advice and assistance in civil law proceedings, including international protection cases.

Scope of legal assistance

If an applicant makes an application for legal services in relation to asylum, subsidiary protection or related matters, the applicant will be provided with assistance as soon as possible including:

- Advice prior to and representation before the International Protection Appeals Tribunal for any appeal against a decision of the Refugee Applications Commissioner to refuse asylum or subsidiary protection;
- Advice prior to and representation in the District Court if they have been detained under certain provisions of the Refugee Act 1996 [The Legal Aid Board cannot represent an applicant who is charged with a criminal offence, but legal aid may be available through legal aid provided for criminal law matters];
- Assistance in the submission of applications for leave to remain;
- Advice in relation to deportation orders.

There is no requirement to be represented by a lawyer before the International Protection Appeals Tribunal.

The judicial review of any decision issued by International Protection Appeals Tribunal or the Minister of Justice may be requested before the High Court. Leave or permission to apply for a judicial review has to be granted first. To lodge such a request, legal representation is not mandatory before the High Court (see here), although an applicant will ordinarily seek legal representation.

An applicant is not required to have a legal representative for appeals before the High Court. However, any applicant who wishes to represent themselves must

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submit a document called a memorandum of entry of appearance to the High Court Central Office (see here).

The barrister representing the applicant normally prepares an originating summons which states the details of the case being made against the defendant. When the defendant receives the summons, they should reply with a statement of claim indicating that they wish to defend their position. The applicant's barrister may reply to a notice of particulars sent by the defendant after which the defendant issues their defence. Hearings before the High Court take place after the issuance of the defence.

Procedural aspects

Interpreters must be hired by the applicant.

Interpretation services will be provided to clients of the Legal Board as required. Applicants may request for the cost of interpretation to also be covered.

Upon request, the Legal Aid Board may authorise for an interpreter to be present during advisory meetings between an applicant and a legal professional.

Type of appeal

Legal aid for appeals to the International Protection Appeals Tribunal (IPAT) is available through the Legal Aid Board.

If an appeal to IPAT is unsuccessful, the applicant must seek the assistance of a private practitioner to receive advice about challenging the decision by way of a judicial review in the High Court.

Legal Aid is not usually provided for a judicial review. Legal Aid Board clients are assisted in getting in contact with a private solicitor if required.

If private legal assistance cannot be obtained, the Legal Aid Board will consider the merits of the application for a judicial review and may apply for legal aid to cover the proceedings, but it is important to note that a judicial review will only be an appropriate avenue in some circumstances and should not be viewed as an appeal procedure.

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Representation

Information is currently not available.

Aspects related to applicants with special needs

There is a specialist unit in the Legal Aid Board centre in Smithfield which deals with minors and victims of human trafficking. It has staff who are specialised in these areas.

The solicitor cannot be appointed as a legal guardian. Tusla would have responsibility for matters relating to the care of unaccompanied minors so should be consulted on this aspect of matters.

Right to counselling in the Dublin procedure

Asylum applicants have access to legal assistance at first instance in the Dublin procedure, which covers legal advice and representation in the interview. Asylum applicants have access to legal assistance on appeal against a Dublin decision, which covers legal advice and representation in the interview.

An applicant who is subject to the Dublin procedure may access legal information through the Legal Aid Board. The applicant is advised that they may obtain legal assistance from the Legal Aid Board. This assistance also applies in an appeal against a Dublin decision.

Access to legal aid while in detention

A person detained under Section 20 of the International Protection Act is entitled to consult a legal representative (Article 14(a)).

The Legal Aid Board can provide legal assistance to asylum applicants who are detained. No NGO provides routine legal assistance to detained applicants, however the Irish Refugee Council Law Centre, as well as private practitioners working in asylum law, may provide such support.

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Quality assurance

Selection, qualifications and training

Upon request of the Department of Justice, Equality and Law Reform, the Legal Aid Board was set up in 1998 as a specialised service specifically dedicated to serving the needs of asylum seekers in the asylum process. It is a statutory, independent body responsible for the provision of civil legal aid and advice to persons of modest means, in accordance with the provisions of the Civil Legal Aid Act 1995.

The board's solicitors must be eligible for admission or admitted to the Roll of Solicitors. Any solicitor wishing to apply to be placed on the Legal Aid Board Private Practitioner Panel must hold a current practising certificate from the Law Society of Ireland and have professional indemnity insurance. They will be expected to provide services in accordance with the Terms and Conditions of the International Protection Solicitors Panel of the Legal Aid Board.

The board has a dedicated Children Unit located in Dublin to handle international protection applications by unaccompanied minors and issues surrounding such applications. All legal professionals engaged in international protection work are required to have the necessary experience and training in the area. Specialised training is provided in conjunction with UNHCR. Solicitors have requirements under the Law Society which regulates the profession to obtain a minimum number of hours for continuing professional development and solicitors working in this area keep up to date with developments by engaging in appropriate training.

Mechanisms for quality assurance

Quality assurance is monitored by the Legal Aid Board, UNHCR and civil society organisations.

The board is committed to the provision of quality legal services to its clients and shall from time to time provide board solicitors and solicitors on the Private Practitioner Panel with best practice guidelines on the approach to be adopted. Solicitors are expected to broadly comply with the guidelines. The Legal Aid

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Board has established some best practice guidelines.

The Legal Aid Board is committed to the provision of quality, professional services in all cases and has formal arrangements in place to handle any complaints from asylum seekers.

All legal professionals engaged in international protection work are required to have the necessary experience and training in the area.

As part of its commitment to ensuring that its clients receive quality services, the board reviews a number of client files to check whether the solicitor or solicitor on the panel provided an appropriate level of service. If the review identifies issues of concern in relation to the provision of an appropriate level of service, the board may inspect any or all legally-aided client files assigned to that solicitor.

If a client is not satisfied with the services of the law centre solicitor, a complaint can be made to the centre's managing solicitor. If a client is still dissatisfied, they can put the complaint in writing. If it is the managing solicitor against whom they have the complaint, the client may put the complaint in writing and send it to Civil Operations at the Dublin office at 48-49 North Brunswick Street, Georges Lane, Smithfield, Dublin D07 PE0C.

If a client makes a complaint to a solicitor about his/her performance and it is not possible to address the complaint to the client's satisfaction, the client should be requested to put the complaint in writing and the complaint should be forwarded to the board. If the board receives a complaint from a client or if the board identifies a performance issue, a copy of the complaint or a note of the performance issue is forwarded to the solicitor for his/her observations. The board shall consider the complaint / performance issue in accordance with its Information Leaflet entitled "Customer Care and Complaints Procedure", and also in accordance with the terms and conditions of the scheme.

Every effort will be made to resolve the complaint. The board publishes information on their Customer Care and the Complaints Procedure.

Inter-institutional cooperation

Information is currently not available.

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Legal assistance and representation for related procedures

Reception conditions

Since the enactment of the Reception Conditions Regulation and transposing the Reception Conditions Directive, the Legal Aid Board has the responsibility for providing legal assistance to international protection applicants also on matters pertaining to reception conditions (such as an appeal of a decision on withdrawing or restricting reception conditions or refusal of a work permit, etc.)

Family reunification

There is no state-provided legal aid available for applications for family reunification in Ireland.

The Irish Refugee Council provides legal representation to people with refugee status and people granted subsidiary protection in their applications for family reunification.

The Irish Refugee Council have partnered with Kids in Need of Defence (KIND) and the Immigrant Council of Ireland to help children who have been granted refugee status to reunite with the families they left behind. A&L Goodbody, Arthur Cox, Microsoft, LinkedIn, Simmons and Simmons have also joined the project as pro bono partners to support refugee children in their applications for family reunification.

DORAS - Direct Support provides a free and confidential advice and legal information service on immigration-related issues including family reunification.

Temporary protection procedure

Information is currently not available.

Beneficiaries of international protection

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