# Legal assistance and representation - Romania

## Overview

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### Relevant EU legislation

Romania 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 Law No 122 of 4 May 2006 concerning asylum in Romania | Lege nr. 122 din 4 mai 2006 privind azilul în România, (18 May 2006) and further amendments.

### National legislation

Besides the relevant provisions from Law No 122/2006 on asylum in Romania, the state funded legal aid as applicable to the international protection procedure is governed by the Government Emergency Ordinance 51/2008.

### Competent authority and stakeholders

Disclaimer: Competent authorities are the persons as “admitted or permitted under national law” including all possible titles provided under national law, for example legal advisers, legal counsels and lawyers (see also Recital 23 and Article 21 of the recast APD).

| Area | National authority/stakeholder |
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|---|---|
| **Provision of legal and procedural information on the applicant's rights and obligations** | Upon request, the applicant has the right to be provided: Specific legal and procedural information and of the possibility to contact a lawyer from the Romanian Bar Association and the conditions to apply free legal aid (Article 17 (s) of the Law No 122/2006 on asylum); specific information on the reasons for being rejected protection and of the possibility to contact a lawyer from the Romanian Bar Association and the conditions to apply free legal aid (Article 17 (ș) of the Law No 122/2006 on asylum). the possibility to engage a lawyer at their own expense throughout the procedure (Article 17(b) of the Law No 122/2006 on asylum). |
| **Legal assistance at first instance determination** | State-funded legal assistance is provided by lawyers from the Romanian Bar Association, upon request and under certain conditions (means test). Legal counselling/assistance can be provided by civil society organisations, for example by CNRR. |
| **Legal assistance at second instance determination** | State-funded legal assistance is provided by lawyers from the Romanian Bar Association, upon request and under certain conditions (means tests). Legal assistance can be provided by civil society organisations. |
| **Legal assistance for other related procedures** | State-funded legal assistance is available for procedures related to Dublin, detention, reception conditions and return. The civil society organisation CNRR provides legal assistance for family reunification, withdrawal of protection, return procedure, detention, and it organises training for professionals (lawyers and interpreters) and thematic meetings. |

# Access to legal assistance and representation

## Provision of information on legal assistance and representation

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Pursuant to Article 16(4) of the Law No 122/2006 on asylum, the General Inspectorate for Immigration has the duty to provide legal information as specified under Article 17 and procedural information on withdrawal of protection, also to the minor and his/her representative.

According to Article 17(1)(s-ș) of Law No 122/2006 on asylum, applicants for international protection have the right to be provided, upon request, with legal and procedural information, including information regarding the procedure in the administrative phase, under the terms of the legislation on public judicial aid in civil matters, taking into account the personal situation of the applicant.

The information provided includes, according to Article 17(1)(ș) of Law No 122/2006 on asylum:

- information on the reasons for the decision to reject the asylum application,
- information on the procedure for contesting the order by which the measure of placement in a specially arranged closed space was ordered,
- information regarding the possibility of contesting the decision by which the granting, limitation or withdrawal of the material reception conditions was ordered.

### Access to premises

Article 87(6) of Law No 122/2006 on asylum provides that while the third country national is at the border, in the border procedure, they have the right to judicial and social assistance from UNHCR. Limitation on such access for UNHCR may take place for reasons of security, privacy, or health reasons. The meeting is facilitated so that the third country national is represented according to the law.

Article 17(d) of Law No 122/2006 on asylum provides that the applicant has the right to contact and be assisted by a UNHCR representative at any stage of the asylum procedure.

Article 17(e) of Law No 122/2006 on asylum provides that the applicant has the right to contact and be assisted by a representative of an NGO at any stage of the asylum procedure.

### Requirements: Means test and merits test

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Only a means test applies for access to state funded legal aid in Romania.

The Government Emergency Ordinance 51/2008 provides under Article 6 that access to legal aid is provided to those persons whose average net monthly income per family member, in the last two months prior to the formulation of the request, is below the level equivalent to 25% of the gross minimum basic salary in the country. In this case, the amounts that constitute public judicial aid are fully advanced by the state. Such persons thus receive free legal aid.

If the average net monthly income per family member, in the last two months prior to the formulation of the request, is below the level equivalent to 50% of the gross minimum basic salary in the country, the sums of money that constitute public judicial aid are advanced by the state in proportion of 50%.

Public judicial aid can also be granted in other situations, proportionate to the applicant's needs, if the certain or estimated costs of the process are likely to limit his effective access to justice, including due to differences in the cost of living between the member states in which he has his domicile or habitual residence in Romania.

### Modalities to submit a request for legal aid

There is no digitalisation for this type of request.

For legal aid at first instance determination the following procedure applies: An application must be submitted to the Legal Aid Service established within each bar association in each county, by using a dedicated model/form approved by the Legal Aid Coordination Department. The application will include information regarding the subject-matter and nature of the aid application, the identity, personal number, domicile and financial status of the applicant and his/her family, supporting documents being attached for his/her (family’s) income, and evidence of the maintenance or payment obligations.

The application will also be accompanied by a declaration on honour from the applicant, indicating whether he/she received any public legal aid in the past 12 months, in what form, for what matter and the amount of that aid.

The applicant will provide evidence of financial status through the following documents:

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- an attestation of income for the applicant and the other members of his/her family;
- the family register and, where applicable, the children's birth certificates;
- the applicant's or child's certificate of disability, where applicable;
- a declaration on honour showing that the applicant and his/her other family members do not receive additional income;
- a declaration on honour regarding the assets of the applicant and his/her family;
- a declaration on honour showing that the applicant and/or the other parent declare(s) that the child is not entrusted or placed in the care of another authorised private body or public service, or of any legal person;
- proof provided by the competent authorities on the statement of the taxable assets on the name of the applicant or, where applicable, on the name of his/her other family members;
- other documents required to establish the right to legal aid under the law.

For legal aid at second instance determination the following procedure applies: The public legal aid application is addressed to the competent court for the appeal.

The request for public legal aid is expressed in writing and includes information regarding the subject-matter and nature of the proceedings for which public legal aid is requested, the identity, personal number, domicile and financial status of the applicant and his/her family, attaching supporting documents of his/her (family's) income, and evidence of the maintenance or payment obligations. The application will also be accompanied by a declaration on honour from the applicant, indicating whether he/she received any public legal aid in the past 12 months, in what form, for what matter and the amount of that aid.

The court may request any clarifications and evidence from the parties, or written information from competent authorities.

The application form is an annex of the Government Emergency Ordinance 51/2008.

### Outcome of the request for legal aid

Legal assistance to lodge an appeal can be requested within the time limit for the respective appeal to the competent court and it is decided urgently. The request for legal aid interrupts the deadline of appeal only once if the applicant submits

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all relevant documents within 10 days. The new deadline for appeal starts from the date of the outcome on the decision on legal aid or of the re-examination (Article 13 of the Government Emergency Ordinance 51/2008).

Article 15 of the Government Emergency Ordinance 51/2008 provides that the court decides on the request without citing the applicant, in council chamber, by reasoned decision. In case of negative decision, the applicant may request its re-examination within 5 days from the notification. The re-examination is decided in a different panel and the decision is final.

State funded legal aid can be refused on appeal when it is requested in an abusive manner, when its cost is disproportionate against the value of the cause, or when it is not requested for the protection of a legitimate interest or for an action which contravenes public or constitutional order (Article 16 of the Government Emergency Ordinance 51/2008).

# Legal assistance and representation at first instance determination

### Service provider

#### State funded

Stated funded legal aid is provided by lawyers from the National Union of Romanian Bar Associations in accordance with the general rules for legal aid under the conditions of the Government Emergency Ordinance 51/2008.

Each Bar Association keeps a registry with lawyers registered for legal aid in civil matters, with a note on the procedures for which they prefer/have experience in providing services (see for example the updated list for 2025 of the Bucharest Bar Association which includes a specific column with the laws/procedures where the lawyer can be designated to provide legal assistance).

State funded legal aid in the administrative proceedings falls under the provisions of Article 35 of the Government Emergency Ordinance 51/2008 with regard to extra judicial legal aid.

#### Civil society organisations

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They usually provide legal assistance through projects funded by the Asylum, Migration and Integration Fund (AMIF)

The Romanian National Council for Refugees (CNRR) is a national organisation which aims to ensure: access to specialised legal assistance for asylum seekers registered and accommodated in reception centers; legal assistance at second instance determination, legal assistance for applicants with special needs; litigation in cases where there is a high chance of creating a judicial precedent.

It is currently implementing the following projects concerning provision of legal aid:

- AM11A/01- legal assistance and counselling to asylum seekers and beneficiaries of international protection, including on family reunification procedure,
- AM31F/01 – legal assistance to foreigners subject to a return decision;
- In cooperation with the Ecumenical Association of Churches from Romania ( AIDRom), the project aims to offer specialised legal aid services to applicants for international protection, and beneficiaries whose status is being reviewed.

### Scope of legal assistance

For the personal interview before the determining authority, Article 45(3)(b) of Law No 122/2006 on asylum provides that the asylum seeker cannot refuse the interview due to the absence of the lawyer. The rescheduling of the interview on grounds of absence of the lawyer is possible only once and only on justified grounds for the absence.

There is no legal provision on organising legal advice through videoconference.

Article 45(4) provides that the record of the interview must include the personal data of the lawyer and paragraph 9 stipulates that after signature of the record of the interview, a copy of the record can be provided to the applicant or the lawyer.

According to Article 35 of the Government Emergency Ordinance 51/2008, extra-judicial legal aid includes: consultations, filing of applications, petitions, referrals, initiation of other related legal steps, as well as representation before public

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authorities or institutions other than judicial or with jurisdictional powers, with a view to achieving the individual's legitimate rights or interests.

The AIDA Report 2023 presents a detailed overview of CNRR activities and of stated funded lawyers and their interventions in asylum cases.

### Procedural aspects

The legal advisor can study the file on request. Furthermore, the legal advisor and the applicant can meet before the interview and there exists also the possibility to request breaks during the interview to communicate.

According to Article 17 f^1) of Law No 122/2006 on asylum, the legal counsel/adviser has access to the applicant's file (e.g. country of origin information, medical reports, interview report or other reports from other authorities).

The legal advisor can study the file based on the written request and on their mandate and they can obtain copies of documents of interest.

The legal adviser/counsel can have access to classified information or to the essence of such information if there are aspects related to national security only if he/she has the special clearance provided by law.

The lawyer or the representative of the civil society organisation can be notified of the outcome of the procedure for international protection directly by representatives of the General Inspectorate for Immigration or by post at the address indicated by the lawyer/civil society representative (Article 54 (1^1) of Law No 122/2006 on asylum).

### Representation

The law provides that asylum applicants may be assisted by a representative in any phase of the asylum procedure (Article 17(1)(e) of Law No 122/2006 on asylum).

### Aspects related to special procedures

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The same rights regarding legal assistance that are provided in the regular procedure are also provided in special procedures.

According to Article 17(1)(e) of Law No 122/2006 on asylum, applicants for international protection have the right to be advised and assisted by a representative of non-governmental organizations, Romanian or foreign, in any phase of the asylum procedure.

In addition, according to Article 17(1)(s), applicants have the right to be provided, upon request, with legal and procedural information, including information regarding the procedure in the administrative phase, under the terms of the legislation on public judicial aid in civil matters, taking into account the personal situation of the applicant.

The information provided includes, according to Article 17(1)(ș):

information on the reasons for the decision to reject the asylum application,

information regarding the possibility of contesting the decision by which the granting, limitation or withdrawal of the material reception conditions was ordered.

According to Article 87(6), an applicant subject to the border procedure and who is present at the border crossing point has the right to legal and social assistance as provided by non-governmental organisations which have a mandate on refugees and from UNHCR representatives in Romania. It confirms that applicants have the rights provided under Articles 17 – 19 (including access to free legal assistance) if these rights do not contradict the provisions for border procedure.

For subsequent applications, Article 88^1 of the Law No 122/2006 on asylum provides that:

(b) the applicant has the right to receive, upon request, personally or on grounds of an authorisation in this sense, through lawyer, or a representative of an NGO representing the applicant, copies of the documents in the personal file based on which a decision was taken or is about to be taken.

(d) to be in contact and assisted by UNHCR representative;

(e) to be counselled and assisted by NGO representatives in any phase of the procedure.

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Article 90 of the Law No 122/2006 on asylum provides for the right of the applicant to have the decision on subsequent application notified to him or to the lawyer as in the regular procedure.

### Aspects related to applicants with special needs

The project PROMISE, implemented by Terre des Homme Romania, aimed at increasing the protection system for children, especially for unaccompanied minors. In this context, the project had, as primary activity, to create a network of lawyers and counsellors specialised on minors' rights and to train them especially with regard to unaccompanied minors.

## Legal assistance and representation in appeals

### Service provider

State-funded legal assistance is provided by lawyers from the Romanian Bar Association, upon request and under certain conditions (means tests).

When it has been decided to provide legal aid, Article 13 (4) of the Government Emergency Ordinance 51/2008 provides that the court notifies its decision to the bar association which has the obligation to designate a lawyer authorised to litigate before that court within 48 hours. The date of the designation is communicated back to the court and the applicant within a maximum of 48 hours.

Legal assistance can also be provided by civil society organisations.

The Romanian National Council for Refugees (CNRR) is a civil society organisation which aims to ensure access to specialised legal assistance for asylum seekers, legal assistance at second instance determination, legal assistance for applicants with special needs and litigation in cases where there is a high chance of creating a judicial precedent.

### Scope of legal assistance

The legal counsel/lawyer prepares the appeal submissions and any evidence that may be relevant for the applicant to submit to the court. The legal counsel/lawyer also represents the applicant in court and submits conclusions before the court.

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### Procedural aspects

The legal counsel/lawyer has access to the applicant's file (e.g. the appeal/answer of the determining authority, updated country of origin information, reports from other authorities, medical reports, hearing report or other reports).

The legal counsel/lawyer has access to classified information or to the essence of such information if there are aspects related to national security only if they have the special clearance provided by the law.

There is free interpretation to ensure good communication and understanding between the legal counsel/adviser and the asylum applicant.

Documents may be submitted online on appeal before the court.

Remote counselling does not regularly take place, but it can be arranged in special cases. Usually, the decision maker sets the date of the interview when all parties agree to be present.

### Type of appeal

State funded legal aid covers all types of appeal procedures and all levels of appeal, including second appeal if requested by the applicant.

Legal aid provided by NGOs depends on the type of project and available funds.

### Representation

Legal aid includes representation in appeals (Article 17(1) of the Law No 122/2006).

### Aspects related to applicants with special needs

The legal counsellor is not the same person as the legal guardian. The procedural guarantees regarding the training of the GII personnel and appointing a legal guardian as soon as possible are a priority. The legal guardian is responsible for requesting the legal adviser.

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Legal counselling can be provided by NGO representatives and public legal aid.

## Right to counselling in the Dublin procedure

According to Article 127 of Law No 122/2006 on asylum, the same rights to free legal assistance that are provided in the regular procedure (under Articles 17-19) are also provided in the Dublin procedures.

According to Article 17(1)(e) of Law No 122/2006 on asylum, applicants for international protection have the right to be advised and assisted by a representative of non-governmental organizations, Romanian or foreign, in any phase of the asylum procedure.

In addition, according to Article 17(1)(s) of Law No 122/2006 on asylum, applicants for international protection have the right to be provided, upon request, with legal and procedural information, including information regarding the procedure in the administrative phase, under the terms of the legislation on public judicial aid in civil matters, taking into account the personal situation of the applicant.

The information provided includes, according to Article 17(1)(ș) of Law No 122/2006 on asylum:

- information on the reasons for the decision to reject the asylum application,
- information on the procedure for contesting the order by which the measure of placement in a specially arranged closed space was ordered,
- information regarding the possibility of contesting the decision by which the granting, limitation or withdrawal of the material reception conditions was ordered.

## Access to legal aid while in detention

According to Article 19^6 (2) of Law No 122/2006 on asylum, the same right to free legal assistance provided in the regular procedure under Article 17(1)(e) is also provided in the procedure regarding detention.

According to Article 17(1)(e) of Law No 122/2006 on asylum, applicants for international protection have the right to be advised and assisted by a representative of non-governmental organizations, Romanian or foreign, in any

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phase of the asylum procedure.

In addition, according to Article 17(1)(s) of Law No 122/2006 on asylum, applicants for international protection have the right to be provided, upon request, with legal and procedural information, including information regarding the procedure in the administrative phase, under the terms of the legislation on public judicial aid in civil matters, taking into account the personal situation of the applicant.

The information provided includes, according to Article 17(1)(ș) of Law No 122/2006 on asylum:

- information on the reasons for the decision to reject the asylum application,
- information on the procedure for contesting the order by which the measure of placement in a specially arranged closed space was ordered,
- information regarding the possibility of contesting the decision by which the granting, limitation or withdrawal of the material reception conditions was ordered.

Detainees have the right to be visited by:

- representatives of national or international non-governmental organizations and bodies with responsibilities in the field of asylum or respect of human rights, authorized and accredited under the law, daily, between 9:00 a.m. and 8:00 p.m.;
- the legal representative or lawyer, daily between 9:00 a.m. and 8:00 p.m.

The visits are authorized by the director of the centre or the legal substitute. If there are no cooperation protocols with these organisations or bodies, visits by their representatives are authorized by the general inspector of the General Inspectorate for Immigration. The visits take place in specially arranged places. Applicants can be visited by a maximum of two people at the same time. In justified situations, the director of the centre or his legal substitute can approve that the applicant receives the visit of more than two people at the same time, for example to participate in counselling activities.

# Quality assurance

### Selection, qualifications and training

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In order to be a lawyer in Romania, a person needs to complete university studies in law and pass a bar exam. After the bar exam, there is a period of traineeship after which the trainee lawyer passes a new exam in order to be definitive lawyer. The conditions for accessing the profession of lawyer in Romania are enshrined in the Statue of the profession of lawyer of 13 January 2005. Lawyers may be added to the list of lawyers of Bar associations which may then be involved in asylum cases.

In asylum cases, the General Inspectorate for Immigration manages AMIF funds which may be dedicated to legal assistance and for which NGOs may propose projects (e.g. CNRR). The Romanian National Council for Refugees (CNRR) is a national organisation which aims to provide specialised legal assistance to asylum applicants and also works on specialisation of lawyers and interpreters working on asylum cases in order to improve the quality of legal aid and of interpretation.

### Mechanisms for quality assurance

There are legal advisors specialising in asylum. General rules apply regarding the code of conduct/ethics.

### Inter-institutional cooperation

Regular meetings take place trainings, seminars, information exchange meetings that bring together different asylum practitioners, such as lawyers, judges, GII personnel and civil society. An annual seminar is organized through an AMIF funded project with the collaboration of CNRR.

## Legal assistance and representation for related procedures

### Reception conditions

The same rights regarding legal assistance that are provided in the regular procedure are also provided in appeals regarding reception conditions. Thus, applicants have the right to legal aid in order to appeal against the decision by

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which the granting, limitation or withdrawal of the material reception conditions was ordered.

According to Article 17(1)(e) of Law No 122/2006 on asylum, applicants for international protection have the right to be advised and assisted by a representative of non-governmental organizations, Romanian or foreign, in any phase of the asylum procedure.

In addition, according to Article 17(1)(s) of Law No 122/2006 on asylum, applicants for international protection have the right to be provided, upon request, with legal and procedural information, including information regarding the procedure in the administrative phase, under the terms of the legislation on public judicial aid in civil matters, taking into account the personal situation of the applicant.

The information provided includes, according to Article 17(1)(ș), information regarding the possibility of contesting the decision by which the granting, limitation or withdrawal of the material reception conditions was ordered.

According to the Council of Europe SGRS fact finding mission report of 2022, legal counselling is provided by the Romanian National Council for Refugees (CNRR) with regard to citizenship, housing, socio-economic rights, social services and benefits for beneficiaries of international protection. the CNRR provided this type of legal aid to thousands of refugees.

### Family reunification

Free legal assistance is accessible in family reunification cases only on appeal under the general rules for legal aid in Romania.

### Temporary protection procedure

The Permanent Commission of the Romanian Union of Lawyers (UNBR) adopted a decision for the provision of legal assistance to displaced persons from Ukraine in 2022. Based on this decision, the Bucharest Bar Association invited lawyer to register in a dedicated group for this purpose. The UNBR also developed guidelines in English and Romanian for lawyers.

On appeal in temporary protection cases, free legal assistance is accessible under the general rules for legal aid in Romania.

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### Beneficiaries of international protection

Pursuant to Article 103 of Law No 122/2006 on asylum, a beneficiary of international protection whose status is reviewed by the determining authority has the right to:

- be assisted by a lawyer,
- be assisted by an interpreter, free of charge,
- contact and be assisted by a representative of UNHCR in Romania,
- be counselled and assisted by a representative of a Romanian or foreign NGO
- be provided, upon request, with legal and procedural information, including information on the administrative procedure and the conditions for free legal aid in civil matters, by taking into account the situation of the foreigner (the general provisions of the Government Emergency Ordinance 51/2008 on state funded legal aid),
- be provided, upon request, of information to clarify the reasons of a decision to end or revoke international protection in the administrative phase, and to be explained the procedure to contest such decision, and the conditions for free legal aid in civil matters, by taking into account the situation of the foreigner (the general provisions of the Government Emergency Ordinance 51/2008 on state funded legal aid).

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