Ad-Hoc Query on early legal advice for asylum seekers

Requested by IE EMN NCP on 24th August 2012

Compilation produced on 19th November 2012

Responses from Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Sweden, United Kingdom plus Norway (22 in Total)

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs’ Member State.

1. Background Information
The Irish Refugee Council Independent Law Centre, an NGO and member of the Irish National Network, has commenced an early legal advice project for applicants for asylum. The purpose of the project is to provide advice to asylum seekers in the early stage of the asylum process, in advance of their first instance interview. The Independent Law Centre is therefore interested in identifying instances of best practice in other Member States regarding the early identification and provision of legal advice and representation to applicants for asylum.

1 http://www.irishrefugeecouncil.ie.
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Questions
1. Are the following initiatives present in your Member State, whether provided by the State, public bodies and/or Non-Governmental Organisations:
   a) The provision of a legal service (in advance of first instance interview) which focuses on the early identification of ‘vulnerable’ asylum seekers (including victims of torture, trafficking, children and young people)?
   b) The provision of legal advice and/or representation at first instance?
   c) If such advice is provided, is it free of charge and by which organisation (e.g. State, NGO?)

2. Before attending for interview at first instance, are applicants for international protection afforded an opportunity to complete a “personal statement” or “witness statement” which sets out the extent of their application?

3. Finally, have any relevant initiatives or studies taken place previously but have now concluded?

2. Responses

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<tr>
<th>Country</th>
<th>Wider Dissemination?</th>
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<tbody>
<tr>
<td>Austria</td>
<td>No</td>
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<td>This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.</td>
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<tr>
<td>Belgium</td>
<td>Yes</td>
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<td></td>
<td>1. An asylum applicant is entitled to legal service. This legal aid is not specifically focused on early identification of vulnerable groups. Besides this the ID (Immigration Department), the CGRS (Office of the Commissioner General for Refugees and stateless) persons and FEDASIL (Federal agency for the reception of asylum seekers) hand out information brochures, available in different languages, about the asylum procedure. There are specific brochures targeted on vulnerable groups. Female applicants for example receive a specific brochure making them aware of certain issues (the issue of equality between men and women, violence within the family, the problem of female genital mutilation, human trafficking...) that might be relevant for them. <a href="http://www.cgvs.be/en/Publications/brochures/">http://www.cgvs.be/en/Publications/brochures/</a> During the hearing as well as afterwards, for the assessment of the asylum application, the CGRS pays specific attention to vulnerable groups such as unaccompanied minors, victims of human trafficking and persons with gender-related motives or with mental/psychiatric disorders.</td>
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2 ‘Vulnerable Person’ is defined as ‘Minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence’ (EMN Glossary)
EMN Ad-Hoc Query: Early legal advice for asylum seekers

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<thead>
<tr>
<th>Bulgaria</th>
<th>Yes</th>
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<tr>
<td><strong>Legal Aspects</strong></td>
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<td><strong>Law on Asylum and Refugees</strong></td>
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<tr>
<td>Article 23. (1) Aliens seeking or who have been granted protection shall be entitled to assistance and help provided by the United Nations High Commissioner for Refugees and by other government or non-governmental organisations at any stage of the procedure and after the protection has been granted.</td>
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<td>(2) The State shall provide conditions for the aliens seeking protection in the Republic of Bulgaria to obtain legal protection.</td>
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**Practical aspects**

1. a) In Bulgaria legal services are provided since the time of registration of such alien seeking protection. It is provided by non-governmental organizations which provide full range of legal services relating to asylum seekers needs. Measures for early identification of vulnerable groups are included as an integrated part of this legal service;
2. In the Bulgarian State Agency for Refugees with the Council of Ministers (SAR) legal advice and legal representation in the first instance is provided by non-governmental organizations (currently there are two NGOs working with the SAR that operate in fair competition);
3. All legal consultations are free and are co-financed by the European Refugee Fund awarded projects for legal assistance. Legal aid also includes legal representation in the court. Beneficiaries of the this funds are NGOs.

2. Before conducting the interview at first instance applicants for international protection do not completed any “personal statement” or “witness statement”. It is only permissible writing handwritten free text application and/or explanation.

3. Here are two projects implemented within the AP 2010 ERF:

b) Yes, An asylum applicant can contact the local Bureau for Legal Aid, and ask for the assignment of a lawyer that will assist him during the asylum procedure (first instance and appeal). At the time of applying for asylum, most asylum applicants have not yet applied for legal aid. However once they have applied for asylum (and before the interview at the CGRS) they will be send to a reception center and a social assistant in the reception center will contact the Bureau for Legal Aid, and ask for the assignment of a lawyer.

c) The Royal Decree on the conditions for full or partial legal aid lists the categories of litigants who benefit from legal aid. Article 1§2, 5° states that the person applying for asylum is presumed to be a person without sufficient resources and thus benefits legal aid (unless proof is given that he does have sufficient resources). This means the asylum seeker in Belgium has the right to get free legal aid from a lawyer, throughout the complete asylum procedure. This system (known as the pro-deo system) is financed by the government.

2. The asylum application is submitted at the Immigration Department (ID). The ID registers the application and records statements about the identity and travel route of the asylum seeker. It also inquires into the basic motives for fleeing the country of origin. The detailed investigation of the asylum motives will occur later during the interview at the CGRS and afterwards.

3. No recent studies have taken place on legal advice in Belgium.
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<tr>
<th>Country</th>
<th>National Consultative Platform (NCP) Response</th>
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<tr>
<td>Cyprus</td>
<td>No This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.</td>
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<td>Czech Republic</td>
<td>Yes Free-of-charge legal assistance to asylum seekers is provided by NGOs based on grants from the European Refugee Fund. The assistance is available starting from the time the foreign national declares his/her intention to apply for international protection, i.e. before the first interview.</td>
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| Estonia          | Yes 1. There is no first instance interview in Estonia for asylum seekers. The application form covers the area of information needed for starting the asylum procedures. The officials of the International Protection Unit are responsible for the identification of vulnerable persons on first instance and informing the officials or organisations in charge. 
   b. Asylum seekers are given information about providers of legal aid when they are introduced to their rights and duties during the first instance procedures. 
   c. In the asylum proceedings an asylum applicant has the right to be provided with legal aid ensured by the state. State legal aid, including legal representation (advocate) in pre-trial proceedings, means provision of legal service to an asylum applicant on the grounds and according to the procedure prescribed in the State Legal Aid Act. For receipt of free state legal aid in asylum proceedings, a corresponding application must be submitted accompanied with the notice of financial status. The application for state legal aid and the notice of financial status shall be submitted to the county court according to the applicant’s residence or seat. 

In the asylum proceedings an asylum applicant has the right to use a representative during asylum proceedings. Estonian Human Rights Centre, an independent public interest foundation, can represent asylum seekers and provide them with legal aid free of charge. 

2. Applicants are afforded the opportunity to give all the information and documents regarding their claim in their asylum application. The applicant has to describe in detail the reasons of leaving the country of origin and why he/she needs asylum or other type of protection in Estonia. Applicant has to write what could happen to him/her in case of return to home country and reason this statement. 

3. No. |
| Finland         | Yes 1. According to Section 9 of the Finnish Aliens Act:
   (1) Provisions on aliens’ right to legal aid are laid down in the Legal Aid Act (257/2002). |
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(2) However, when an administrative matter is being handled, the counsel assigned to an alien may also be a person with legal training other than a public legal aid attorney.

(3) When handling a matter referred to in this Act, a court may grant legal aid to an alien without requiring a statement on the financial position of the applicant for legal aid. The counsel’s fee is paid out of State funds as provided in the Legal Aid Act.

Legal aid is provided by Legal Aid Offices as well as other law firms and attorneys that have listed with the reception centre as providers of legal aid services for asylum seekers.

The Finnish Refugee Advice Centre is the most commonly used legal aid provider for asylum applicants. It is a non-governmental organisation founded in 1988 by other Finnish NGOs. The Refugee Advice Centre provides legal aid and advice to asylum seekers, refugees and other foreigners in Finland. The Refugee Advice Centre has four offices in Finland. Legal aid from the Finnish Refugee Advice Centre is free of charge in the first instance proceedings.

The Finnish Refugee Advice Centre is a non-governmental organisation founded in 1988 by other Finnish NGOs. The Refugee Advice Centre provides legal aid and advice to asylum seekers, refugees and other foreigners in Finland. The Refugee Advice Centre has five offices in Finland.

Lawyers of the Refugee Advice Centre give legal aid to asylum seekers in different stages of the asylum procedure. The Refugee Advice Centre also works to promote the legal rights of asylum seekers, refugees and other foreigners. The organisation is recognised as an expert in refugee and aliens affairs in Finland. It is thereby heard by officials and the Parliament when new laws concerning foreigners are drafted.

The Refugee Advice Centre works in close co-operation with the United Nations High Commissioner for Refugees (UNHCR) as well as European refugee organisations. The Refugee Advice Centre is a member of the European Council on Refugees and Exiles (ECRE) which represents 70 refugee organisations throughout Europe.

An asylum applicant is allowed to use a counsel or representative at the asylum interview and in the appeal process regarding the decisions on one’s application. Basically, everyone should self pay for the legal assistance that they may need. If someone cannot afford the necessary assistance, it may be provided to them partially or fully at the expense of the state.

2. Yes, when leaving the application for asylum the applicant also leaves the written statement on his or her grounds for protection.

3. The Ministry of the Interior set up a project for the period of 5 January - 15 March 2011 to assess the current situation of legal aid provided to persons applying for international protection, taking into consideration the prevailing overlaps between legal aid pursuant to the Legal Aid Act (257/2002) and legal counselling arranged by reception centres based on government funding, which is not legally regulated. The final report of the project was published on 17 March 2011.

In its report, the steering group recommends that the provision of legal counselling organised by reception centres should continue under the funding allocated to reception operations. A follow-up task is to determine whether there is a need for legal provisions to govern legal
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| Country | Provided | Yes | 1. | a) Reception of newly-arrived asylum seekers in France is managed by the system of first reception for asylum seekers which has been coordinated and financed by the French Office for Immigration and Integration (Office français de l’immigration et de l’intégration = OFII) since 2010. Reception platforms are managed either by the regional OFII directorate, or by associations which are financed by the OFII, or both. 23 of the 34 platforms are run by associations (France Terre d’Asile, Coallia, Forum Réfugiés, Croix-Rouge française, etc.). Since 2008, this network has been reorganised. In 2011, a list of services provided by these platforms, which was approved by the Ministry in charge of asylum (Ministry of Interior), was sent to their managers. This list includes in particular: reception and information on the procedures, accommodation, assistance for preparing applications (asylum seeker’s residence permit, accommodation in a reception centre...), guidance on the asylum application procedure at the French Office for the Protection of Refugees and Stateless Persons (Office Français de Protection des Réfugiés et Apatrides = OFPRA), guidance on emergency accommodation system, administrative and social support, preparation to facilitate integration into French society or for return to the country of origin, guidance to unaccompanied minors.  

b) If applicants wish to obtain more advice about the interview, they may consult NGOs which can provide a specific expertise. This is not managed by the State.  
c) Services above-mentioned are free of charge.  

2. Before the interview, applicants must fill in and send an application (“dossier”) to the OFPRA. In particular, they must fill in a form where they describe the reasons which led them to flee their country and, consequently, which justify their request for international protection. It must be their own statement because, during the interview, they will be asked about the legitimacy of their story and the reasons for persecution.  

3. and 4. The competent department of the French Ministry of the Interior would like some further details about questions 3 and 4. |

| Country | Provided | Yes | 1. a) At any stage of the asylum procedure, the authorities involved pay attention to signs of vulnerability of asylum seekers. A systematic search in order to identify vulnerable asylum applicants is not carried out.  
b) At present legal advice or representation is not provided for during the asylum procedure. This possibility is limited to the appeal or review procedure. The asylum seeker has the possibility to engage a legal adviser, e.g. a lawyer who also may support the asylum seeker during the interview.  
2. The personal interview is carried out in timely connection with the application. During the interview, the applicant is given full opportunity to state the reasons for making his or her asylum claim. A separate opportunity to draw up a statement prior to the interview is not provided for. |
### Hungary

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**Yes**

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<td>a) No</td>
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<td>b) Yes</td>
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<td>c) Out of the public bodies, the Office of Public administration and Justice is providing a free legal advice for asylum seekers. Hungarian Helsinki Committee provides comparable activities too, as well as any applicant may authorize a lawyer to act as a legal representative in his/her case. Obviously the latter is not free.</td>
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2. The applicants can mark the data in question at the beginning of the procedure of their applicant, however it is not obligatory. In Hungary, currently there is no formal restriction, no – independent of audition – mandatory questionnaire form. Nevertheless, at any time during the procedure the applicant can make a written statement, by the authority’ decision should be evaluated.

3. We have not information of such cases.


### Ireland

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<td>1.</td>
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<td>a) The state funds legal aid for asylum seekers through the Refugee Legal Service, a specialised branch of the Legal Aid Board, which is an independent statutory body. The Refugee Legal Service has a specialised minors’ unit which provides advice and representation to minors. It also has a specialised unit for victims of trafficking. There is no specialised unit for victims of torture, but a victim of torture may be referred to the Centre for Survivors of Torture for a medico-legal report. There is no means test if a person is living in direct provision accommodation (hostel accommodation for asylum seekers) and a service is provided to those who apply subject to a nominal fee.</td>
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<td>b) The Refugee Legal Service (described above) can provide advice and representation to all asylum seekers at every stage of the process, including at first instance. Every client of the Refugee Legal Service is assigned a solicitor and a caseworker. In practice, however, the majority of asylum seekers (excluding minors or particularly vulnerable persons) meet their caseworker for a legal information appointment at first instance and do not receive advice on the particular facts of their case from a solicitor prior to appeal stage. A comprehensive system of advice and representation is provided at appeal stage. The Refugee Legal Service was established in 1999 and has represented more than 40,000 asylum seekers during this time. It has had a considerable reduction in staff numbers in recent years as the numbers of people claiming asylum in Ireland have dropped (from 11,500+ in 2002 to just 1,939 in 2010). A small independent Law Centre was established in November 2011 by the Irish Refugee Council (the querist in the instant case) which is providing a pilot early legal advice for asylum applicants. The Irish Refugee Council is an NGO and currently receives its funding from private philanthropic sources. The Law Centre has four staff and therefore can provide services only to a limited number of asylum seekers. Asylum applicants, who do not have another solicitor, are offered a two hour legal advice appointment. Where the Law Centre has capacity and can add value to an applicant’s case, they will provide comprehensive advice and representation at first instance, including a personal statement setting out client’s claim in their own words and where possible accompaniment to first instance interview.</td>
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<td>c) Legal advice from the Refugee Legal Service is subject to a €6 nominal fee.</td>
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**EMN Ad-Hoc Query: Early legal advice for asylum seekers**

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<th>Country</th>
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<tr>
<td>Italy</td>
<td>Yes</td>
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1. a) The procedure for granting international protection provides specific guarantees in favor of foreign minors who intend to submit an application for protection. In particular, Social Services of the municipality where the minor lives will assist him/her in the application for asylum with the collaboration of the United Nations High Commissioner for Refugees and any other organization working in the area of protection of asylum seekers (mainly the Italian Centre for Refugees, CIR). The assistance provided is not a legal service, but rather a legal advice. Even in the case of other vulnerable categories, such as people with disabilities, elderly people, victims of violence, etc., legal assistance is provided for the submission of the application for international protection. This special assistance, however, is only mandatory in case the applicant for protection is sent to a Center for Asylum Seekers (CARA). Assistance is provided either directly by the municipal social services or by operators of organizations which have signed a special agreement with the Prefecture of the area where the CARA is located.

b) The Italian law (art. 11, par. 6 of the Consolidated Act on Immigration) states that information and assistance services must be provided at border crossing points to foreigners seeking asylum. These services are made available, where possible, within the transit area and are entrusted to private organizations, by means of a call for tender.

2. It is open to any legal representative acting for a client to make representations to the first instance decision maker, the Refugee Applications Commissioner. In practice, however, it is not usual for a legal representative to lodge such a document.

It is, however, usual practice for the Refugee Legal Service (statutory service) to make legal submissions at first instance in relation to unaccompanied minors. In 2008, the Refugee Legal Service ran a pilot Early Legal Advice project, in which comprehensive submissions were made at first instance in relation to other cases, however, it is the writer’s understanding that it was not possible to continue this project due to resource issues.

Where the Irish Refugee Council Law Centre (NGO) takes on a client for advice and representation in the early stages, they prepare a personal statement with the client which are different but comparable to witness statements prepared in the UK. The aim of the statement is to facilitate an asylum applicant put forward the full extent of their case in their own words at the earliest opportunity and to allow the decision maker to read that statement prior to the interview with a view to assisting the individual client and the asylum process as a whole.

3. Grainne Brophy is Managing Solicitor of the Refugee Legal Service and supervised the provision of the pilot early legal advice service by their offices in 2008.

Jacqueline Kelly is Managing Solicitor of the Irish Refugee Council (IRC) Independent Law Centre and is overseeing the early legal advice pilot project currently underway at the IRC.
EMN Ad-Hoc Query: Early legal advice for asylum seekers

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c) All legal services indicated in paragraphs a) and b) are provided free of charge.

2. Yes. Applicants for international protection may attach to the application a document with a personal statement, which can be written in the foreigner’s mother tongue.
3. Please refer to a study by ASGI on the right to international protection (in Italian): [http://www.asgi.it/home_asgi.php?n=2040&l=it](http://www.asgi.it/home_asgi.php?n=2040&l=it)

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<th>Country</th>
<th>Response</th>
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| Latvia  | Yes      | General remark: In accordance with Asylum Law an asylum seeker has the right to request a person to get legal aid using his/her own financial resources. If the asylum seeker does not have sufficient funds he has the right to legal aid ensured by State budget in the appeal stage of asylum procedure.
1. a) There are no legal aid companies which are focused to provide legal services in advance of first instance interview in order to identify vulnerable asylum seekers;
   b) There is no legal aid provided by State budget at the first instance (*Please see general remark*). The legal assistance at the first instance’s procedure is provided by NGO on case by case basis;
   c) Legal assistance which is provided by NGO is free of charge.
2. Before the interview on asylum grounds the State Boarder Guard conducts an initial interview where the main information on asylum seeker - personal data, information on travel routes etc., and reasons for asylum were collected. Details of reasons for asylum are obtained during the interview on asylum grounds thereby the application capacity can be expanded.
3. Latvian Centre for Human Rights – Džena Andersone, +371 67039338, office@humanrights.org.lv |
| Lithuania | Yes | 1.
   a) There is no such legal service in advance of first instance interview which focuses on the early identification of ‘vulnerable’ asylum seekers. Asylum seekers have a right to enjoy legal assistance in advance of first instance interview if they ask for it. The legal consultations are granted by the State.
   b) Asylum seekers have a right to enjoy legal assistance at first instance if they ask for it. Otherwise the legal assistance is not provided. Minor asylum seekers are provided with legal assistance at first instance without a demand.
   c) It is free of charge and granted by the State.
2. When the person applies for the international protection he or she has to submit an application which indicates the reasons why it is necessary to grant for the person asylum in the Republic of Lithuania. No additional “personal statement” or “witness statement” can be submitted.
3. No. |
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| **Luxembourg** | Yes    | 1. a) Article 6 (3) of the modified Law of 5 May 2006 (Asylum Law) establishes that the applicant is informed in writing, and, if possible, in the language that is reasonably supposed that the applicant will understand, about the contents of the international protection procedure, its rights and obligations during the procedure and the consequences in case if he/she does not comply with his/her obligations or does not cooperate with the Minister.
   Each international protection applicant receives a brochure when the application is filed. This document is available in English, German, French, Albanian, Serb, Turkish, Russian, Arabic, Chinese, Farsi, Spanish and Portuguese.
   The detection of vulnerable persons can be made in different stages during the asylum procedure: during the reception, the interview with the applicant (i.e. base on medical certificate from its country of origin); or during the medical examination, etc.
   In the case of unaccompanied minors, article 12(1) establishes that an “ad-hoc administrator” will be appointed as soon as possible to assist him/her in the scope of the examination of the application and before the interview so he/she will be prepared for it. The ad-hoc administrator will accompany the minor in all the proceedings.
   b) The provision of legal advice and/or representation at first instance?
   Article 7 (1) of the modified Law of 5 May 2006 (Asylum Law), establishes that when a person files an application of international protection, he/she will be informed by the authorities that he/she is entitled to be assisted by a translator free of charge and of his/her right to have a lawyer of his/her choice or that one will be appointed by the Chairman of the Bar Association. This information must figure in the file.
   c) If such advice is provided, is it free of charge and by which organisation (e.g. State, NGO?)
   If the international protection applicant proves that he/she does not have any means the Luxembourgish state will cover the cost of legal representation during the entire procedure (article 2 (2) 4 of the Law of 18 August 1995 on legal aid).
   2. During the filing of the international protection application, the applicant has the possibility to write down the reasons underlying the application.
   3. To the knowledge of the EMN NCP LU there are not any relevant initiatives or studies in this field. |

| **Netherlands** | Yes    | 1. a) All applicants for international protection are provided with legal aid during the asylum procedure. An applicant first meets his legal aid councillor during the preparatory period (that is before the first instance interview). During the preparatory period the Dutch Refugee Council also informs the applicant about the Dutch asylum procedure. If the Legal Aid worker or the Dutch Refugee Council concludes that an asylum seeker is a vulnerable person that needs special attention, they can contact the Immigration Service before the first instance interview if the desire to do so.
   b) All applicants for international protection are provided with legal aid during the asylum procedure. This includes legal representation during an appeal procedure against the first instance decision.
   c) Yes, legal representation is free of charge and is provided by the Legal Aid Board. The Legal Aid Board is a non-departmental public body, financed by the Ministry of Security and Justice. |
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| Poland       | Yes      | 1. Application for granting the refugee status is fulfilled by the asylum seeker on the border of state in presence of Border Guide Officer. The application (among others) contains questions which help to identify victims of torture, trafficking, violence, etc. Before attending for interview at first instance applicants for international protection (Vulnerable Persons) are provided (by the state) with psychological assistance. They are also interviewed at first instance in presence of a psychologist.  

-All asylum seekers are informed about possibility of getting a legal advice from one of Non-Governmental Organisations. The list of NGOs (not-paid by the state; NGOs are acting "of one's own free will" is enclosed for application for granting the refugee status and it has to be signed by the asylum seeker as confirmation of receiving this information.  

b). Asylum seeker receives list of NGO who can provide legal advice and represent the foreigner at first instance (e.g. representative accompanies the asylum seeker during the interview at first instance).  

c). Legal advice (if requested by asylum seeker) might be provided by NGO and is free of charge.  

2. Applicants for international protection are afforded an opportunity to complete personal statement which sets out the extent of their application for granting the refugee status; they may also enclose materials and indicate witnesses of case.  

3. Recently, some examinations devoted to this subject took place.  

Most of the reports published at the NGO’s websites have been written in Polish (e.g. Report on vulnerable groups in refugee procedure in Poland - 2008; Guidelines on standard operating procedures with regard to recognition, counteracting and responding to cases of sexual based violence and gender related violence against foreigners staying in the centres for persons applying for refugee status in Poland;  

“Witold Klaus, Justyna Frelak, Słabe ogniwa. Wyzwania dla funkcjonowania systemu ochrony uchodźców w Polsce [Week links. Challenges for functioning of the refugees’ protection system in Poland]” http://www isp org pl publi kacje 61 503 html  

http://www bezuprzedzen org doc slabe_ogniwa pdf  


| Portugal     | No       | This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.  

| Slovak Republic | Yes  | 1. In the Slovak Republic the legal aid to the asylum seekers is provided by the Legal Aid Center (state budgetary institution) and NGOs (their activities in this regard are financed from the European Refugee Fund) – Slovak Humanitarian Council and Goodwill Society.  

a) |
The role of the Legal Aid Centre is defined in the law, according to which it can provide legal aid to the asylum seekers only in the second instance (appeals), i.e. when the application was refused. In the first instance the aid can be provided only when the court cancelled the decision of the Migration Office and the case was returned to the first instance.

The Slovak Humanitarian Council provides among other activities also legal aid and assistance and legal representation to the asylum seekers placed in the accommodation centres and also to those placed in the detention centre in Medvedov. Council is not working in the reception centre which is the first place of stay for the asylum seeker. If the interview with the asylum seeker was not conducted in the reception centre and he/she is placed to the accommodation centre, the legal aid focused also on the identification of the vulnerable group is provided. In case of taking over the case by the lawyer he/she is participating in the initial as well as in the other interviews with the asylum seeker and the legal aid is provided during the whole asylum procedure. To persons who gained subsidiary protection but decided to again apply for asylum the legal aid is also provided.

The Goodwill Society is providing legal aid in the reception centre by means of a lawyer who is in the centre 8 hours per day. He/she is providing basic information on the asylum proceeding within collective lecture or via individual consultations. The lawyers as well as social workers in their daily contact with the asylum seeker are trying to identify if this person could have been a victim of human trafficking or torture, they are trying to gain his/her confidence in order to help. The legal aid is provided free of charge however the aid as such might be refused by the asylum seeker.

b) For the Legal Aid Centre see also answer 1a).
As for the Slovak Humanitarian Council and the Goodwill Society the legal aid is provided in all stages of the asylum procedure while the first instance is the most important one when the Migration Office decides on the non/granting of the asylum. The second instance is already the appeals procedure when the court can only confirm or cancel the decision of the Migration Office but never goes into the case as such.

c) The legal aid is provided as mentioned by the Legal Aid Centre financed form the state budget and two NGOs financed from the European Refugee Fund. In all cases the legal aid is free for the asylum seekers.

2. The terms “personal statement” or “witness statement” are not defined in the Slovak legislation. The asylum proceeding starts when the person concerned declares in front of the police unit that he/she applies for asylum. In this statement he/she states his/her will possibly also the reasons for applying for asylum. The statement is very short – 2-3 sentences. Further details are provided during the interviews.

3. No initiatives or studies were conducted in this regard.

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<th>Sweden</th>
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| 1.     | a) No – but during the first interview questions are asked about this but not with this as a focus.  
      | b) Yes • Most asylum seekers are allowed to have legal assistance. This is called the **right to public counsel.** Usually, a trained lawyer will look out for the person’s interests and help to explain his/her grounds. The Swedish Migration Board will choose a counsel for the asylum seeker, but he/she can also suggest someone whom they trust. The Migration Board will pay for the public counsel. The counsel works independently of the Swedish Migration Board and other public authorities. |
### EMN Ad-Hoc Query: Early legal advice for asylum seekers

**Disclaimer:** The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

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| United Kingdom| Yes          | a) The provision of a legal service (in advance of first instance interview) which focuses on the early identification of ‘vulnerable’ asylum seekers (including victims of torture, trafficking, children and young people)?
|                |              | Across the UK legal advice is available to asylum seekers prior to their asylum interview, but funding is not available for the Representative’s attendance at interview. This is except for those in Detained Fast Track, Unaccompanied Children, and those going through the Early Legal Advice Project in the Midlands region.
|                |              | Background to the Early Legal Advice Project
|                |              | The UK Border Agency is working with the Ministry of Justice through the Legal Services Commission in the Midlands region of the UK to test the impact of providing high quality legal advice to asylum seekers early in the process. The Early Legal Advice Project (ELAP) is a new approach that is being tested across the whole of the Midlands and East Region to improve decisions through the provision of early legal advice. The project was implemented in November 2010 and runs until March 2013, with the evaluation due early 2013.
|                |              | The objective of the process is to get more cases right first time by ensuring decision makers have all the evidence available at the decision making stage. The evaluation of the project will look at whether the access to early legal advice has a positive impact on decision-making, asylum seeker trust in the asylum system and the management of public funds.
|                |              | Process
|                |              | Under the ELAP process the applicant meets with a Legal Representative a few times before their substantive asylum interview. This allows for the applicant to discuss their case; to draft a Witness Statement and to gather any evidence in support of their case.
|                |              | The Legal Representative will then provide the Asylum Caseowner with a Witness Statement and then have a pre-interview discussion. The purpose of this is to discuss and agree the material facts of the case and to narrow the issues prior to the interview. The Legal Representative will attend the interview with the applicant. They are allowed to ask questions during the interview to make sure all the evidence is disclosed prior to the decision making. The Caseowner remains in control of the interview.
After the interview the Legal Representative and the Caseowner discuss the case. This is the opportunity for the Caseowner and legal representative to agree on any additional evidence which may clarify matters still in dispute following the interview and before a decision is made.

More information on the process and project can be found here;
http://www.legalservices.gov.uk/docs/immigration_docs/ELAP_FAQ_-_Corporate_Partners.pdf

b) The provision of legal advice and/or representation at first instance?
If residing in the Midlands region and represented by a Legal firm with an ELAP contract the Representative will attend the asylum interview with the applicant. Attendance is also funded across the UK for unaccompanied children and those in Detained Fast Track. Attendance is therefore not funded for adult cases outside of the Midlands, unless the applicant privately funds them to attend.

c) If such advice is provided, is it free of charge and by which organisation (e.g. State, NGO?)
Public funding is provided by the Ministry of Justice via the Legal Services Commission.

2. Before attending for interview at first instance, are applicants for international protection afforded an opportunity to complete a “personal statement” or “witness statement” which sets out the extent of their application?

Under the ELAP process applicants complete a witness statement prior to their interview. Outside of the ELAP region Legal Aid funding and time prior to the interview is limited and therefore statements are not as common.

3. The evaluation of the Early Legal Advice Project is ongoing and expected to be finalised in early 2013. The project follows on from a previous pilot ran in 2006-2007 known as the Solihull Pilot. The evaluation of this project was undermined by a lack of data and it therefore could not conclude whether the process was suitable for a national role out, or if the process was efficient in saving costs. ELAP is therefore an expansion of the principles tested in 2007, but on a larger scale, with all regional cases including children being offered an appointment with a legal representative, allowing the process’ suitability for national rollout to be tested.

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1. a) There is no provision of a legal service which focuses on the early identification of vulnerable asylum seekers. However, unaccompanied, minor asylum seekers are provided with free legal advice.
b) According to section 17-17 in the immigration regulations a foreign national who applies for protection, and who does not have the right to free legal advice, shall be offered individual guidance from an independent organisation when submitting the application, i.e in advance of the first interview.
c) this advice is provided free of charge
2. The applicant is not afforded an opportunity to complete a personal statement. Norway used to do this, but stopped doing a few years
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ago, because the same information was gathered during the asylum interview. Now the Directorate of immigration conducts an interview on arrival where the focus is on the applicants reasons for seeking asylum. A full scale interview is conducted at a later time.

3. No