



In March 2023, the EUAA organised a Thematic Workshop on Legal Assistance and Representation in the Asylum Procedure. Key stakeholders, including lawyers and civil society organisations, participated to share knowledge, good practices and challenges in the functioning of the Common European Asylum System.

The following article is based on a presentation given at the event.

# Good Practices and Challenges in the Provision of Legal Assistance to Unaccompanied Minors in Bulgaria

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The Bulgarian legal framework for the provision of legal assistance to unaccompanied minors is based on the Law on Asylum and Refugee (LAR), which entered into force in December 2002. The rules on legal assistance and representation currently in force were adopted in 2020.

## 1. History of the relevant LAR provisions

The rules on legal representation and assistance for unaccompanied minors who are applicants for, or beneficiaries of international protection are laid down in Article 25 of LAR. Since the adoption of the Act in 2002, the provisions of this article have been amended a total of four times – in 2005, 2007, 2015 and 2020. The following is a brief analysis of the last two amendments.

### 1.1. The 2015 amendments

In 2015, an amendment was adopted mandating the local municipalities to act as legal representatives of unaccompanied minors. The legislative solution was highly criticised and two key issues were raised.



First, the local municipalities lacked qualified staff possessing the necessary knowledge, experience and expertise to be able, in accordance with the principle of ensuring the best interests of the child, to assist unaccompanied minors in exercising their rights and fulfilling their obligations.

Second, one or two representatives were appointed for one reception centre with hundreds of unaccompanied minors, thus hindering the timeliness and effectiveness of the assistance provided.

## **1.2. The 2020 amendments**

The amendments to the LAR in October 2020 adopted a major change in the rules for the legal representation of unaccompanied asylum-seeking and refugee minors. The duty to represent unaccompanied minors was shifted from local municipalities to lawyers registered at the National Legal Aid Register – a register managed by the National Legal Aid Bureau (NLAB).

As a result, lawyers represent unaccompanied minors not only in the relevant asylum or refugee status procedure, but also after the granting of asylum or refugee status. Representation is provided before any and all agencies and institutions that act as stakeholders in exercising the rights of the minors.

Following a formal request by the State Agency for Refugee (SAR), the NLAB appoints a legal aid lawyer by means of an individual decision for each minor.

### ***Aims of the 2020 amendments***

The 2020 amendments to LAR aim at reducing the difficulties connected with the absence of parents of children seeking international protection. That goal is to be achieved by ensuring proper and systemic legal representation and care for the best interests of the children in asylum and refugee procedures, but also in any other legal procedure relevant to the exercising of the rights of the child. The amendments also aim to address the high rates of absconding and the protection and safety risks that the latter entails.

### ***Requirements for the lawyers***

Legal aid lawyers who act as representatives of unaccompanied minors are appointed following a successful formal application procedure. They must be private practice lawyers who abide by the integrity standards of the profession, as laid down by the Code of ethics for Bulgarian lawyers and the Lawyers Act.

In terms of the qualifications of the appointed legal aid lawyers, they must have relevant experience in asylum and migration law and child protection law. They also need to have knowledge in languages and to undergo relevant training (UNHCR, CoE HELP courses, BHC, FAR trainings and their respective exams).

The selection of eligible lawyers was carried out in 2021.





### ***Follow-up statistics after the 2020 amendments***

Between 2020-2022, the NLAB issued a total of 7,712 decisions for the provision of legal aid to unaccompanied minors (363 in 2020, 3,718 in 2021 and 3,631 in 2022). In 2021, legal aid and representation was provided to a total of 3,127 unaccompanied minors from 11 different countries. The vast majority (nearly 85%) of the recipients were from Afghanistan.

## **2. Principles of and challenges in the current legal framework**

### **2.1. Principles**

Legal representation and assistance to unaccompanied minors in Bulgaria is provided in line with the following core principles:

- respect of fundamental rights;
- ensuring child-friendly asylum proceedings;
- guaranteeing child-friendly justice;
- helping children to make informed decisions;
- understanding cultural differences;
- inter-cultural communication;
- protecting the right to family unification;
- tailored approach: addressing the individual circumstances of an unaccompanied child; and
- holistic approach.

### **2.2. Challenges**

Currently, the system for legal assistance to unaccompanied minors is faced with two major challenges.

#### ***Coordination mechanism***

Currently, no coordination mechanism between lawyers, social workers, health, education and social services providers, interpreters, etc. is in place. This presents a barrier to the timeliness and efficiency of the legal assistance provided and calls for a more interdisciplinary approach.

#### ***Delayed notifications***

On numerous occasions, the SAR has delayed (up to 1 month) in notifying the NLAB about the necessity to appoint a representative to an unaccompanied minor. As a result, some unaccompanied minors have had no access to proper information about the asylum procedure and their rights, and especially the right to be legally transferred under the Dublin III Regulation to another EU+ country in order to reunite with family members.

