

Access to Justice for Refugees Under Regional Human Rights Frameworks

Magdalena Krol 

Faculty of Law and Administration, University of Gdansk, Gdansk, Poland

m.krol@example.org

Amara Diallo

Faculty of Law, Cheikh Anta Diop University, Dakar, Senegal

a.diallo@example.org

DOI: [10.5281/zenodo.0000000](https://doi.org/10.5281/zenodo.0000000)

Abstract — Refugees seeking legal remedy for rights violations frequently encounter procedural and practical barriers that limit meaningful access to justice, notwithstanding formal guarantees provided under regional human rights frameworks. This study examines how procedural barriers, including legal aid availability, language interpretation access, and documentation requirements, shape refugees' practical ability to pursue claims before regional human rights mechanisms. Drawing on case analysis of admissibility decisions alongside interviews with legal aid practitioners working with refugee claimants, we identify recurring points at which procedural requirements, though facially neutral, disproportionately exclude refugee claimants relative to other claimant groups. Findings indicate that documentation requirements linked to exhaustion of domestic remedies present a particularly significant barrier, given that refugees often lack continued access to domestic legal systems in their country of origin following displacement. Legal aid availability varied considerably depending on claimants' host country location, producing uneven practical access despite formally uniform regional procedural rules. We propose procedural adaptations, including flexible interpretation of domestic remedy exhaustion requirements for displaced claimants, that could improve practical access without requiring substantive treaty amendment. These findings contribute to ongoing discussion of procedural reform needed to make regional human rights protection meaningfully accessible to refugee populations.

Index Terms — refugee rights, access to justice, human rights law, regional human rights frameworks, asylum procedures

I. INTRODUCTION

Refugees seeking legal remedy for rights violations frequently encounter procedural and practical barriers that limit meaningful access to justice, notwithstanding formal guarantees provided under regional human rights frameworks [1]. Facially neutral procedural requirements applicable to all claimants may nonetheless disproportionately exclude refugee claimants given their distinctive displacement circumstances [2].

Exhaustion of domestic remedies, a standard admissibility requirement across regional human rights mechanisms, presents particular difficulty for refugees who often lack continued access to domestic legal systems in their country of origin following displacement [3]. Legal aid and interpretation access further shape practical claim viability independent of substantive legal merit [4].

This study examines how procedural barriers shape refugees' practical ability to pursue claims before regional human rights mechanisms, drawing on admissibility decision

analysis and interviews with legal aid practitioners.

II. RELATED WORK

Access to justice scholarship has long distinguished formal legal entitlement from practical accessibility, identifying resource, information, and procedural barriers as central determinants of whether formal rights translate into usable remedies. Refugee law scholarship has examined domestic asylum procedure barriers extensively, but comparative analysis of procedural exclusion specifically within regional human rights mechanism admissibility processes remains comparatively limited. Complementary evidence from adjacent literature further situates these dynamics within the broader field [5]. Related methodological precedents also inform the analytical choices adopted here [6].

III. METHODOLOGY

Case analysis of admissibility decisions from regional human rights mechanisms was combined with semi-structured interviews with legal aid practitioners representing refugee claimants, identifying recurring points at which procedural requirements produced claimant exclusion.

A. Procedural Barrier Categorization

Admissibility decisions were coded according to the specific procedural ground for rejection or acceptance, distinguishing domestic remedy exhaustion issues, documentation deficiencies, and representation or interpretation access problems, allowing comparison of barrier frequency across claimant host country location.

IV. RESULTS

Table 1 summarizes procedural barrier frequency across analyzed admissibility decisions by category and host country legal aid availability.

Domestic remedy exhaustion emerged as the most frequently cited barrier overall, while documentation, interpretation, and representation barriers were markedly concentrated in regions with lower legal aid availability.

V. DISCUSSION

The prevalence of domestic remedy exhaustion barriers reflects a structural mismatch between a procedural requirement

Table 1. Procedural barriers in refugee claims before regional mechanisms

Barrier Category	Cases Affected	High Legal Aid Region	Low Legal Aid Region
Domestic remedy exhaustion	41	22	19
Documentation deficiency	27	9	18
Interpretation access	18	5	13
Representation access	23	6	17

designed for claimants with continued access to functioning domestic legal systems and refugee claimants' actual displacement circumstances, where such access is often severed by the very events prompting displacement. The concentration of documentation, interpretation, and representation barriers in low legal aid availability regions indicates that formally uniform regional procedural rules produce uneven practical access depending on claimants' host country location, undermining the principle of equal access the frameworks nominally guarantee. Flexible interpretation of exhaustion requirements for displaced claimants, without requiring substantive treaty amendment, represents an administratively feasible reform pathway.

VI. CONCLUSION

Procedural adaptations, including flexible interpretation of domestic remedy exhaustion requirements for displaced claimants and targeted legal aid expansion in underserved host regions, could meaningfully improve refugees' practical access to regional human rights protection. These findings contribute to ongoing discussion of procedural reform needed to make formal guarantees meaningfully accessible.

REFERENCES

- [1] J. C. Hathaway, *The Rights of Refugees Under International Law*, 2nd ed. Cambridge Univ. Press, 2021.
- [2] M. Galanter, "Why the 'haves' come out ahead: speculations on the limits of legal change," *Law Soc. Rev.*, vol. 9, no. 1, pp. 95-160, 1974.
- [3] G. S. Goodwin-Gill and J. McAdam, *The Refugee in International Law*, 4th ed. Oxford Univ. Press, 2021.
- [4] F. Francioni, ed., *Access to Justice as a Human Right*. Oxford Univ. Press, 2007.
- [5] European Court of Human Rights, *Practical Guide on Admissibility Criteria*, Council of Europe, 2022.
- [6] African Commission on Human and Peoples' Rights, *Guidelines on Access to Justice and Legal Aid in Africa*, 2016.