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# EUROPEAN CITIZENS WITHOUT DEFENCE

Legal aid in Europe as seen by Lawyers

**European Democratic Lawyers**

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*“Recognizing that legal aid is an essential element of a functioning criminal justice system that is based on the rule of law, a foundation for the enjoyment of other rights, including the right to a fair trial, and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process, States should guarantee the right to legal aid in their national legal systems at the highest possible level (..).*

United Nations Principles and Guidelines  
on Access to Legal Aid in Criminal Justice  
System, 3 October 2012.

Minimum international legal standards on the right to legal aid have been set by the European Convention on Human Rights and the case law of the European Court of Human Rights, supported by principles and standards from the International Covenant on Civil and Political Rights, the UN Human Rights Committee, the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, and other European and UN bodies.

One of the (most) fundamental procedural rights of all people accused or suspected of crimes is the right to legal assistance at all stages of the criminal process.

But it is not enough to merely allow a theoretical or illusory right to legal assistance. The right must be practical and effective in the way in which it is applied: the experience shows how far we are from fulfilling the (minimum) conditions.

**Nicola Canestrini,**  
italian criminal defense attorney

**Country report about legal aid:**

<http://www.canestrinilex.com/resources/legal-aid/>



### Curriculum Vitae of the author

Born in 1973, Mr. Canestrini became a Doctor of Jurisprudence with summa cum laude from the University of Ferrara in 1999 (thesis: "Positive law and systemic legitimacy in Jürgen Habermas's discourse theory of law"). He has been licensed to practice before any Italian Court, including the Italian Supreme Court.

Main fields of practice are **Italian and European criminal law and Italian criminal defense**.

Criminal defense attorney Canestrini is a former visiting professor at the University of Ferrara (focus: human rights and international law of armed conflict), and has, since 1999, been director of the Italian centre of peace studies.

He has been a member of the board of the law review of the Italian Association of democratic lawyers, *Diritto di Critica*, and is still a member of the European Criminal Lawyer Association, the ELA Extradition Lawyers Association and of the European observatory of the Italian *Unione Camere penali*.

Besides others, Mr. Canestrini is a consultant in immigration law for the Immigration Informative center, *Cinformi*.

Since 2009 he has been a member of the board of the regional Italian criminal lawyer association (President since 2014).

He is also a member of the European Criminal Lawyer Association and was member of the board of the Italian criminal law website [www.penale.it](http://www.penale.it) (focus on "drug legislation" and "public order"); in addition to extensive in-court experience, Mr. Canestrini is also a contributing author to several law reviews (such as *Diritto e Giustizia* (Giuffrè Editore), *Guida al diritto* (Il Sole 24 Ore Editore)), and one of the most authoritative and comprehensive legal information websites, *Altalex*, ..).

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