

GENERAL INFORMATION FOR ASYLUM SEEKERS

1) Who can obtain Refugee Status in Italy

"...Any person who has a well-founded fear of being persecuted on grounds of race, religion, nationality, political opinions or membership to a particular social group, who flees his/ her country and is unable or unwilling to return...". (Geneva Convention 1951, art.1 regarding Refugee Status).

2) Applying for Refugee Status in Italy (art.1 L39/90¹)

Applications for Refugee Status should be lodged immediately with the police authorities at the border, or subsequently upon gaining access to Italian territory at any "Questura" (Local Police Headquarters).

In exchange for the application the local or border police provide the foreigner with an "invito" (invitation) in which an appointment for the interview and photo-taking are detailed.

At the Questura, the asylum seeker:

- has their photo taken;
- presents an asylum application, preferably written; hands over their passport and photocopies of all other documents in their possession (identity cards, membership cards etc.) However, the application can be lodged even if the asylum seeker does not possess these documents;
- answers the police's questions during the "oral" concerning their journey, reasons for fleeing their country, family members in Italy or elsewhere, etc.;
- supplies four passport photos (4cm x 4cm);
- is asked for a contact address.

At the Questura, the asylum seeker has the right to ask for:

- a personal hearing with the Central Commission for the Recognition of Refugee Status in the language of their choice.
- a contribution of 17.56€ per day for each mem-

ber of the family ("contributo di prima assistenza"), should they have no means of hospitality or financial support².

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It is strongly advised to retain all original documents, handing over only photocopies.
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3) Temporary Residence Permit.

The Questura supplies the asylum seeker with a Residence Permit stating either:

- "Dublin Convention 15/6/90"³, if it has not yet been established which of the European Union Member States is the competent authority to examine the application.

This permit lasts a month, after which it is renewable.

or

- "Asylum claim", should Italy have been established at the time of the application or subsequently as the competent authority to deal with the claim. In this case the permit is valid for three months and is renewable until the procedure of recognition commences.

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- At times, whilst waiting for the Residence Permit to be issued, a provisional "coupon" with a photograph is provided to authorise a legal stay in Italy.

- It is always important to check the spelling of the name, surname and nationality written on the Resident's Permit and all other documentation consigned to the Questura.

- Changes of address must always be communicated to the Questura at which the original application was made.
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4) Cases in which Italy is responsible for carrying out the application for Refugee Status

- Presence of relatives in Italy (wife/ husband, small children, parents if the asylum seeker is a minor) who are recognised as refugees accor-

¹ Article 1 is the only clause of Law 39/90 in force today - the so-called 'legge Martelli' - and reconceptualises the provisions of the 1951 Geneva Convention regarding eligibility for Refugee Status.

² See Decree 237/90 for the regulations of art.1, 8 of law 39/90, regarding initial financial aid for asylum seekers and refugees, as modified by the Home Office's Decree 24th June 1998 no.284.

³ Since 1st September 1997 the Dublin Convention has been in force in Italy. It determines the competent state to examine a Refugee Status application, and creates a system of exchange of information between the European Union Member States (Austria, Belgium, Denmark, France, Finland, Germany, Greece, Holland, Ireland, Italy, Luxembourg, Portugal, The United Kingdom, Spain, Sweden).

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ding to the Geneva Convention, in the case of their explicit consensus;

- Entrance into Italy with a Residence Permit or an Italian visa;
- Irregular entrance (without the usual documentation / visas) into one of the European Union's member states via Italy. In this case Italy takes responsibility as the country of first entry.

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Should it be found that another state is responsible for the Refugee Status application, the questura gives the asylum seeker a permit to reach the state in question.
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5) The asylum seeker's rights:

Whilst waiting to obtain Refugee Status the asylum seeker has the right:

- to request the "contributo di prima assistenza" (17.56€ per day) if without means of sustenance or hospitality in the reception centres run by Local Authorities or Prefectures;
- to register with the National Health Service ("Servizio Sanitario Nazionale") NHS card, basic medical care, ambulance and specialist aid, hospitalisation, etc⁴.
- to stay in the welcome centres run by Local Authorities, Prefectures or private organisations;
- to roam freely within Italian territory. However, any changes of address must be communicated to the Questura.
- to school education for minors (until 15 yrs)

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The asylum seeker cannot work.
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6) Exam for the Refugee Status application

The application is examined by the Central Commission for the Recognition of Refugee Status⁵. The Questura gives the asylum seeker an appointment with the Central Commission in Rome at which to recount his/her personal history and the reasons for which they were persecuted.

The Central Commission for the Recognition of Refugee Status has three options:

- to recognise Refugee Status;
- to deny Refugee Status;
- to deny Refugee Status but request the implementation of articles 5, 6 and 19, 1 of the " Testo Unico dlg 286/98 law concerning immigration and the condition of foreigners " , on the basis

of which the competent Questura can supply a Permit of Residence for Humanitarian Motives which gives the right to work and study.

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The Central Commission's decision is communicated through the Questura.
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7) Denial of Refugee Status

In cases in which Refugee Status is not conceded, the asylum seeker receives a negative result ("diniego") from the Central Commission. This is notified by the questura, which at the same time takes back the Residence Permit.

Furthermore, the asylum seeker is asked to leave state territory (injunction), and usually receives a Decree of Deportation, on the basis of which he/she is obliged to quit Italian territory within 15 days. Remaining in Italy beyond this point would be unlawful and could bring about enforced deportation, including police escort to the border.

Since January 2000 it has been possible to present an appeal to the Civil Court or to the President of the Republic within 120 days of notification.

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- In cases of denial one can seek legal assistance from a lawyer or an association of protection.

- In the case of deportation, the asylum seeker cannot return to Italy or the other European Union Member States until 5 years have passed.
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8) Rights of the Recognised Refugee

a - Basic Rights:

- The Right to Work : All legally resident foreign workers and their families are guaranteed the same treatment and rights enjoyed by Italian workers. Regarding public positions refugees are placed on the same level as Italian citizens.
- Legal protection is on a par with that of the Italian citizen regarding rights and legitimate interests in dealings with Public Administration and access to public services, within the usual constraints of the law. Refugees have free access to the courts of law.
- Protection of data involved in the asylum claim: all of the information gathered during the process of granting Refugee Status, including require-

⁴ See 'Circolare n.5' of 24/ 03/2002 by the Health Minister in reference to the "Testo Unico".

⁵ The Central Commission is the only institution in Italy with the authority to grant or deny asylum, and consists of a representative from the cabinet, one from the Minister for Foreign Affairs, two from the Home Office, and one from the United Nations High Commission for Refugees, which functions on a consulting basis only. See art.2 of the President of the Republic's Decree, 15th May 1990 no.136 for regulations of art.1, clause 2, of the 30th December 1989 Decree, no. 416, modified from law 39 of the 28th February 1990 concerning the recognition of Refugee Status.

sts for financial help and all other documentation relating to refugees, is removed from the Right of Access to Administrative Documents, as stipulated in the law no. 241/1990⁶.

- Prohibition of deportation or expulsion unless there are serious reasons for considering the refugee a danger to the safety of the host country, or he/she is found to have been condemned for a past crime of particular gravity, and therefore represents a threat to the said state (art.33 Geneva Convention, 1951).

b - Civil Rights:

- Enrolment in the register of foreign residents: a condition for the enjoyment of civil, social economic and cultural rights.
 - issue of an Identity Card, valid only in Italy.
 - obligation to renew declaration of municipal residence within 60 days of the renewal of the Resident's Permit, on pain of cancellation.
- Auto - certification: parity between the legally resident foreigner and the Italian citizen regarding those matters which can be ratified by public institutions or private Italian organisations. The lawful residence of the foreigner is the object of auto - certification.
- Driving Licence:
 - conversion from national licences (if from a state recognised by the Minister of Transport);
 - equal right as Italian citizens to obtain an Italian driving licence, on the basis of certain conditions.
- Marriage: authorisation is granted by UNHCR according to a "public act based on the birth certificate, for matrimonial purposes" drawn up by the Civil Court of the place of residence.
- Separation/ Divorce of a marriage in Italy: as for Italian citizens.
- Public Education: obligatory and free, as for Italian citizens.
- University: parity with Italian citizens regarding student grants, exemption from university fees etc.
- Healthcare: parity with Italian citizens. The NHS card ("tessera sanitaria") lasts as long as the Residence Permit.
- Welfare services and social insurance: (maternity leave, sickness, old age, disability, death, unemployment, dependants and social benefits, council accommodation): same as for Italian citizens.
- Reuniting with family members: to be requested at the local Questura without having to give proof of employment or accommodation.

- Italian Citizenship: after five years of legal residency and according to the stipulations of the law.
- Financial Assistance: according to the Home Office and UNHCR's programme, which favours:
 - interventions of initial assistance (a daily contribution of 17.56 € for 90 days can be requested within 12 months of the recognition of Refugee Status);
 - financial support for singles and nuclear families;
 - interventions in recognised situations of social fragility;
 - support for integration into the world of work.

c - Documents relating to the recognition of Refugee Status

- Certificate of Recognition of Refugee Status, issued by the Central Commission;
- Residence Permit ("permesso di soggiorno") minimum duration 2 years, renewable, issued for cases of "political asylum" or "asylum granted" by the competent local Questura;
- at the request of the refugee, a travel document which permits travel abroad, except in the country of origin, following the usual regime of visas which depend on the nationality of the refugee. For European Union countries, freedom to travel without visas is for a maximum of three months (excepting for motives of work);
- Residence Permit ("carta di soggiorno"): after 5 years of legal residence in the country and on certain conditions.

B ASYLUM CLAIM EX ART. 10, 3 OF THE ITALIAN CONSTITUTION

In Italy an asylum application can be presented at the Civil Court even in the first instance, in cases in which the country of origin prevents the effective realisation of democratic liberties as guaranteed in the Italian constitution (art. 10 comma 3 Cost).

Given the absence of a systematic law on the right to asylum implemented within the constitution, the duration and method of issuing Residence Permits as well as the rights and duties of the asylum seeker and those who obtain Refugee Status are not yet established.

⁶ According to art.24, clause 4 of the '7th August 1990 law, no. 241 which establishes new norms in the administrative procedure and right of access to administrative documents' and the Home Office's Decree of the 10th May 1994 no.415/1994 detailing the 'regulation of categories of documentation removed from the right of access to administrative documents'.

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