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Procedure for the recognition of international protection

Who can apply for the recognition of international protection?

Any foreigner who wants to seek protection can apply for it if he is escaping from persecution, torture or war, whether he entered illegally in Italy or is not in possession of any documents.

There is no time limit for the application. You can apply for it even after eight days from the date of entry. It can be presented to the Borders Police Office or The Provincial Police Headquarter (Questura) where the applicant intends to live.

The Questura will issue a document that attests the request of protection and the date of the appointment for an interview. The application will be written down by the Police officials using the form provided by the Ministry, within which the applicant will be asked for his personal data, the reason why he was forced to leave his country and why he intends to seek protection.

It is advisable to submit to the Questura a written application in your own language and/or with its proper translation. It could be better if you go to any association engaging in political asylum and seek their assistance on how to make a written request. It is also recommended to attach any document that proves the persecution or torture if the applicant is in possession of it.

The application cannot be rejected by the Questura.

If the foreigner is holding a passport, he must surrender it to the Police, and submit four pictures, he should likewise inform the address where he lives and his fingerprints will also be taken.

In case the applicant has no passport, a certificate with biographical data or an identification card issued by his country could prove useful.

At the time of application, the applicant must provide an address which therefore all notices and appointment will be sent to. It is important that it be updated or whoever lives in it must notify immediately the applicant, should any notice arrive

Following the application, the Questura will then issue a certificate bearing the applicants name, while waiting for Residence Permit for Political Asylum which is generally released within 30 days.

The asylum seekers Residence Permit will be issued only after the Questura has made all the necessary inspections, and has verified that Italy is the competent country to examine the application for international protection and that there is no reason for him to

be detained to CIE (Centro di Identificazione ed Espulsione) nor in the detention center of CARA. (Centro di Accoglienza per Richiedente Asilo)

The Prefect will establish a residence or a place wherein the applicant can move around.

It is possible to submit before or after the hearing (but before the decision is made) some supporting notes or proof of the story he told which he got in possession after his initial interview.

It is important to keep all the time copies of all the documents that have been submitted to Questura, Prefecture and Commission as well as the written reports given by these offices.

Who cannot avail of protection?

One cannot be granted Subsidiary Protection neither considered refugee if:

- committed a crime against peace, war criminal or felon against humanity.
- committed a serious crime of common right in other country before he is being admitted as a refugee.
- Guilty of actions against the goals and principles of the United Nations

The evaluation about the inaccessibility to the procedure regarding serious crimes cannot be done by the Questura who receives the application but by the competent Commission of the territory.

If the alien is considered a threat to the law and order of the State, his application will not be admitted; however, it will be subject for further examination.

What will happen once the application is submitted?

Subsequent to the submission of the application for Asylum, the Questura can then decide regarding the reception or detention of the applicant.

- Reception in CARA

Detention in the Identification Centers and simplified procedures are no longer provided by the law and is now called CARA which is responsible:

- for verifying and identifying the nationality and identity of the applicant in case he is not in possession of travel documents or identification card or whether he presented a false document upon his arrival to the State.

The period of stay to the reception center is limited and the applicant will be held there while conducting the necessary background checks which however, will not be more than 20 days.

- when he presented the application after he has been stopped for avoiding or trying to avoid boarder checks. The reception is available during the time which is necessary for checking the application and however will not exceed 35 days
- when he presented the application after he has been stopped for illegal staying

The asylum seeker can be held in the reception center only for a period which is strictly necessary to check the grounds of the application and however for a period of not more than 35 days.

In case the asylum seeker is received in CARA, he will be issued not the Residence Permit but a certificate bearing his name.

When the period of stay to the reception center has lapsed, the applicant will be provided a Residence Permit bearing the words "asylum application", which is valid for three months.

Detention in CIE

The applicant will be detained in CIE

- if he has an expulsion or deportation order
- if committed a crime against peace, war crime, and crime against humanity
- if committed serious crime of common right outside host country and before being accepted as a refugee.
- If guilty of acts against the objectives and principles of the United Nations.
- If condemned in Italy for committing any of the crime indicated in art. 380 comma 1 & 2 of Penal Code Procedure or crimes related to drugs, aiding and abetting illegal immigration towards Italy and illegal emigration to other states, or crimes for recruiting persons with the scope of prostitution, or exploitation of prostitution or of minors to be used for illegal activities.

In case the applicant is sent to CIE, he will be issued not a Residence Permit but a certificate bearing his name. The rule does not establish the maximum duration of permanence.

If the applicant is not subject for detention, he will be given a personal certificate followed by a Residence Permit for asylum application and has a validity of three months and is renewable until the completion of the procedure. This however will be issued only after the verification of the competent State that must receive the application in accordance to the Regulations of Council 343/2003 which has been carried out by comparing fingerprints through EURODAC system. In addition, this permit allows the holder the right to avail fiscal code and to register in the National Health Services. Free sanitary services is guaranteed to the applicant.

Asylum seekers cannot take up any working activities.

Six months after the issuance of the first permit, and if the decision is not made yet, a permit of six months will be issued to the applicant and with this permit the applicant may be able to take a job. The applicant can move around in places established by the Prefect.

Protection Services for Asylum and Refugee Applicants

For those who are exempted to be hosted in the reception centers, in CARA or in the detention center, it is guaranteed to them that they be included in the Protection System. As a matter of fact, the Decree no. 140 of 30th of May 2005 obliges the countries to receive the applicants who presented themselves in the Questura for filing their

application within 8 days from their entry. Asylum seeker must apply for the reception at the time of his application, declaring that he has lack of financial means.

For those who have the right to be accepted in SPRAR (Sistema di Protezione per Richiedenti Asilo e Rifugiati) but has been refused to be accomodated in the Protection System, it is possible to ask for contribution assistance of the State, and this should be through a written request addressed to the Immigration Office of the Questura and will be forwarded to the Prefecture of the province where he lives.

“Dublin Cases”

In case the applicant falls on the Rules 343/2003, he will be issued a Permit bearing the wordings “Dublin Convention”, which has a validity of one month and is renewable until the procedure for verification and possible transfer is not completed.

Who will decide on the application?

The competent deciding authority regarding the application for international protection is the **Territorial Commission for Recognition of International Protection.**

The competent Commission is the one where the application took place, except in the case of detention or reception in CARA, wherein the competent Commission is the one where the Center is located.

The Territorial Commission can:

- Recognize international Protection, political asylum or subsidiary protection
- not recognize any type of protection
- ask the Questura the issuance of Permit for Humanitarian Protection (take note of the difference between the Residence Permit for Humanitarian Reasons which were issued until January 2008).

The regulation is very precise about the definition of

- **act of persecution** and **motives of persecution** that, if ever it has been recognized, the applicant will be allowed to have the recognition of Refugee status; or
- **- serious damage**, that if ever recognized, will allow the applicant to have a **subsidiary protection.**

The hearing for the applicant.

The hearing is not obligatory, but the applicant is obliged to be present if he is summoned. The territorial commission may decide even without interviewing the person, if they feel that they have sufficient elements for granting international protection.

The Commission will communicate to the Questura the date of the hearing and the latter will be responsible to inform the applicant through the address indicated in the Residence Permit or through the detention/reception centers where he is hosted. It is important and is compulsory to update the domicile at the time of renewal of the residence permit.

If the applicant does not appear at the hearing and didn't ask that the latter be postponed, his application will be evaluated based on the documentation that has been sent.

What kind of Residence permit will I receive after the decision of the Commission?

The recognition of the **status of refugee** allows:

- the issuance of **Residence Permit** for political asylum valid for 5 years;
- the issuance of **travel document** for refugees for them to be able to go abroad;
- the issuance of **refugee card** which allow further renewal and administrative procedures;
- to request for **citizenship through naturalization** only **5 years** after the recognition of status;
- reunification of family or make a cohesion with family in accordance with the requisites of the law, but is exempted to present documents regarding lodging and income and is given special condition regarding the document that attests family relationship;
- access to labor;
- access to education;
- health and economic assistance (for disabled person, accompanying cheques, maternity cheques) the same treatment granted to Italian nationals.

The subsidiary protection is recognized in presence of serious damage to persons.

The recognition of **subsidiary protection** allows:

- the issuance of **Residence Permit** for subsidiary protection with a validity of 3-years;
- the issuance of **travel document** for those who cannot get it from their own embassy so that they can go abroad;
- reunite with his/her family**, or make a family cohesion, in accordance with the requisites of the law and is given special conditions regarding the documents that attest family relationship,
- access to labor;
- access to education;
- health and economic assistance (for disabled person, accompanying cheques, maternity cheques) the same treatment granted to Italian nationals.

Both type of protection is about status, hence the revocation can be made only after the verification of the individual situation and with specific procedures.

How long and what are the procedures for the examination of the application?

The examination of the application through the convocation of the applicant would be within 30 days from the date of application and the decision should be done in the following three days. In case the application is clearly valid or it is presented by someone who is in vulnerable condition, or if the applicant is being detained, his application will be examined with high priority

Review

In case of negative result, it is possible to ask that the application be reviewed.

The request can be done only in case there are new documents or evidence which is not available prior to initial examination.

Although the rules is clearly applied only to those who are detained, it is however possible to request for a review to the Commission who examined the application, if the applicant believes that important evidence has not been taken into consideration or has not arrived in time. **However, it is important to make an appeal to be able to stay in Italy.**

Appeal

The appeal will be filed to Ordinary Court. The competent Court is the one who has its office in the district of Court of Appeal where the Territorial Commission office is located.

The appeal will suspend expulsion except for the following cases, according to the current rules:

- those who received a denial for not being present during the hearing;
- applicants who received denial of the application due to lack of sufficient grounds;
- those who were sent to CARA or CIE for illegal staying;

At the time of submission of appeal the petitioner can ask the court for the suspension of order for serious and valid reasons.

The required time for presentation of appeal provided by the law is **30 days**.

Subsequent to the appeal, the law decides that a **Permit for asylum application** be issued.

The allowed time for appeal for those who are detained in CIE or CARA is 15 days.

The petitioner has the right if he does not have the means of support, to avail free legal assistance paid by the state. The income can be declared by self certification, even without proof of supporting papers which according to law is generally requested at the embassy of his country of origin.

The appeal can also be done even if there is an order for the revocation of status.

Primary assistance contribution

In case there is no available room in reception centers, a financial assistance of which the amount is established by the Ministry of Interior, can be obtained provided the applicant made a formal request.

Labor

An asylum applicant is not allowed to work in the first six months from the date of entry in Italy. Upon the next renewal, he has the right to have a Permit with 6 months validity and specifically indicated on it that the said permit allows the applicant to take up any working activities. However, it cannot be converted to a Work Permit.

A Refugee and the beneficiary of humanitarian protection are allowed to work, register as unemployed and take training courses. In case of drawing up a labor contract, they should not fill up the Contratto di Soggiorno (Contract of Residence), explicitly cited in the Ministerial note of the 25th of October 2005, regarding the functions of the Sportello Unico.

Health

Any asylum seeker in possession of Residence Permit and fiscal code is obliged to register in National Health Services, which gives him the right to have a physician and be guaranteed of medical examination without paying the prescription charge.

A refugee and a beneficiary of subsidiary protection are obliged to register in National Health Services and they can have medical examination and will partially pay expenses.

Revocation and termination of status:

The National Commission is responsible for the decision about the revocation and termination of the status.

The **termination of the status of refugee** will take place if the alien:

- voluntarily re-acquired the protection of the country of citizenship.
- Having lost citizenship, he voluntarily re-acquired the citizenship of the origin country;
- acquired Italian citizenship or other citizenship and enjoys the protection of the country in which he acquired citizenship.
- Voluntarily returns to the country of origin.
- Can no longer renounce to the protection of the country where he has the citizenship, because there are no longer reasons to continue keeping the status of refugee.
- is a Stateless person and can come back to the country where he used to live, because there are less circumstances that determined the recognition of the status of refugee.

In the last two cases, the change of circumstances must not have temporary nature, must eliminate the fear of persecution and there should not be serious humanitarian reasons to keep them from coming back to their country of origin.

Revocation of the status of refugee for individual cases can be done if, subsequent to the recognition of refugee status it has been verified that:

-there are conditions for the denial of the status based on the presumption or based on the danger for the safety of the State;

-the recognition of the status of refugee is determined only from facts presented in a wrong way, omission done by them, or by making an appeal using false documentation to prove these facts.

Termination of the status of subsidiary protection, it can be done if there are no longer motives that caused the recognition or they have been changed in such a way that the protection is no longer needed.

The changes should be significant and not temporary, so that any person who receives benefits of subsidiary protection is no longer exposed to the risk of serious damage which is stated in art. 14 and there should not be serious humanitarian grounds which impede the return to their country of origin.

The **Revocation of subsidiary protection status** can be done if, after the recognition of status, it has been verified that;

-there are still reasons that impede access to the procedures;

-the recognition of subsidiary protection status has been acquired by way of presenting facts in a wrong manner or by way of omission, or by filing an appeal using false documents of the said facts.

For all of the above cases, the interested person must be informed about the current procedures and should have the possibility to be heard in an individual interview.

Updated on the 25th of February